



**BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
GOVERNMENT OF THE DISTRICT OF COLUMBIA**



May 2, 2025



RE: Whether the DC Criminal Justice Coordinating Council is a public body subject to the Open Meetings Act (OOG-2024-0010).



On September 1, 2024, the Office of Open Government (OOG) received your request on behalf of the [REDACTED] for an Advisory Opinion on whether the District of Columbia Criminal Justice Coordinating Council (CJCC) is a public body subject to the Open Meetings Act (OMA) (“Complaint”).¹ I issued a provisional Advisory Opinion on February 6, 2025, pursuant to DCMR § 10405.2, to provide CJCC with the opportunity to provide a formal response to the Complaint and/or to the points contained therein. CJCC provided a formal response on April 2, 2025. The response from CJCC did not provide a substantive response to the legal arguments raised in the Advisory Opinion, so that opinion is final, as of the date of this letter and is incorporated by reference.

The CJCC is a public body subject to the OMA. Its membership is comprised of DC officials (Mayor, Attorney General, Police Chief, etc.) and it coordinates policy and information among the District and federal government. It is partially funded through the District of Columbia’s local budget. These are all characteristics shared by entities deemed public bodies under the OMA. However, the CJCC is currently excluded from the OMA, until July 6, 2025, due to emergency legislation, the Open Meetings Clarification Emergency Amendment Act of 2025, Act A26-0041.² Therefore, I conclude that meetings of the CJCC are subject to the OMA, upon the expiration of the emergency. The provisional Advisory Opinion is OOG’s final decision on the matter and sets forth the rationale.

The response from CJCC did raise issues, concerning meetings of the agency that I will address. CJCC requested that OOG address the ability of the agency to conduct meetings. For the purposes of this analysis, I will refer to the 19-member public body as the “Council” and the

¹ D.C. Official Code § 2-571 *et seq.*

² The D.C. Council also approved B26-200, the “Open Meetings Clarification Temporary Amendment Act of 2025,” on first reading, and it is expected to undergo a second vote on May 6, 2025.

independent agency, led by Executive Director Kristy Love as “CJCC-agency.”³ From my discussions with Director Love, the Council has not convened official meetings because it has not been able to assemble a quorum of members to conduct government business. According to the Council’s Memorandum of Understanding (MOU) that was executed on March 6, 2023, and remains in effect for five years (attached), two-thirds (2/3) of the Council must convene in order to hold meetings.⁴ The quorum required for the Council to convene is thirteen (13) members, according to the MOU.

Instead of holding these meetings, CJCC-agency has convened meetings with representatives from the Council members’ offices. These closed monthly meetings have been for information sharing and general discussion of the issues informing criminal justice policy in the District, according to Director Love. The CJCC-agency closed monthly meetings are also chaired by the Deputy Mayor for Public Safety and Justice. The CJCC-agency also appears to have convened two public meetings in 2024, with the Executive Director and two representatives from members the Council’s offices.⁵ These meetings appear to be an attempt to convene in the manner contemplated by the Council’s MOU.

The MOU requires that the Council convene monthly regular meetings.⁶ Ten of those meetings are closed to the public (“executive session”) and two of those meetings are open to the public.⁷ The meetings that are open to the public must be held in accord with the OMA per the MOU.⁸ The Council also agreed to hold two budget meetings and two community meetings, which are open to the public and must conform to the OMA.⁹ The Mayor of the District of Columbia is currently the only Council member who may designate an alternate to attend these meetings.¹⁰ From the facts OOG has ascertained, the Council is not meeting. The CJCC-agency meetings cannot be deemed Council meetings under the MOU because the required thirteen members of the Council do not attend those meetings. Whether or not the CJCC-agency should continue to convene their meetings is a question of policy. But the Council cannot convene a meeting in the absence of a quorum per the terms of the MOU.

Thus, the true issue with the CJCC (the Council) is not whether or not the body is subject to the OMA. Complying with the OMA is actually less burdensome than complying with the CJCC’s MOU. The true issue is that the CJCC is a vital part of District government’s criminal justice ecosystem that does not appear to be convening. To remedy the actual problem, CJCC’s Executive Director should work with the Mayor to recommend that the D.C. Council amend D.C. Official Code § 22-4233 to permit all of the CJCC members to appoint an alternate to attend the meetings required under the MOU and adjust the quorum required to convene a meeting.

³ Members of CJCC are set forth in D.C. Official Code § 22-4233.

⁴ Section E.6 of the MOU.

⁵ <https://cjcc.dc.gov/page/public-meetings>

⁶ Section E.1 of the MOU.

⁷ *Id.*

⁸ *Id.*

⁹ Sections E.3 and E.4 of the MOU.

¹⁰ Section E.8 of the MOU.

Sincerely,

A handwritten signature in cursive script that reads "Niquelle Allen". The signature is written in dark ink and is positioned above a horizontal line.

Niquelle M. Allen
Director of Open Government
Board of Ethics and Government Accountability

Attachments (2)

cc: The Honorable Muriel E. Bowser
Mayor of the District of Columbia
Chairperson, Criminal Justice Coordinating Council

Betsey Cavendish
General Counsel
Executive Office of the Mayor

Kristy Love
Executive Director
Criminal Justice Coordinating Council

ATTACHMENTS



THE CRIMINAL JUSTICE COORDINATING COUNCIL FOR THE DISTRICT OF COLUMBIA

Memorandum of Understanding

I. MISSION

The Criminal Justice Coordinating Council (CJCC), an independent agency, serves as a forum for identifying challenges and generating solutions to enhance public safety and the fair administration of justice for District of Columbia residents, visitors, victims, and justice-involved individuals. The CJCC facilitates information sharing and collaboration, conducts research and analysis, and provides training and technical assistance on behalf of its District and federal member agencies.

II. LEGISLATIVE ENACTMENT

The CJCC was initially formed in May 1998, pursuant to a Memorandum of Understanding, as a working group of justice system agency leaders charged with facilitating cooperation among local and federal justice system agencies in the District. The CJCC was statutorily established as an independent agency of the District government in 2001, when the Council of the District of Columbia enacted the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, D.C. Law 14-28, D.C. Official Code § 22-4231 et seq. In 2002, Congress passed the Criminal Justice Coordinating Council Restructuring Act of 2002, Pub. L. 107-180, D.C. Official Code § 22-4241, authorizing the heads of certain federal agencies to participate as members of the CJCC.

III. ORGANIZATION

A. Officers

1. Chair. The Chair shall be the Mayor of the District of Columbia in conformance with section 1504(a)(l) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, D.C. Official Code § 22-4233(a)(l). The Mayor may designate the Deputy Mayor for Public Safety and Justice as Chair Pro Tempore in the Mayor's absence.
2. Co-Chair. The Co-Chair shall be a CJCC member whose agency does not fall under the administrative authority of the Mayor of the District of Columbia. The Co-Chair shall be nominated and elected biennially by the members of the CJCC. If the Co-Chair's term is vacated, a special election will be held.

3. Responsibilities of the Officers. The Chair shall approve the agenda and preside over the regular and special meetings of the CJCC. In the absence of the Chair, the Chair Pro Tempore and Co-Chair shall approve the agenda and preside over the regular and special meetings of the CJCC.

B. Executive Director

1. The Executive Director shall be appointed by the CJCC and shall serve at the pleasure of the CJCC. The CJCC shall memorialize the process for appointing the Executive Director in writing and disseminate the written process to all CJCC members.
2. The Executive Director shall function as the chief executive officer of the CJCC and in that capacity is authorized to bind the CJCC in contractual and other matters affecting the agency operations and responsibilities of the CJCC consistent with the general policy directives of the CJCC and the approved budget. The Executive Director may also exercise such additional powers as may be delegated to him or her from time to time by the CJCC. In accordance with the approved budget, the Executive Director may hire staff members and shall direct them in the performance of their duties.
3. The Executive Director shall comply with the terms delineated in the position description provided at the time of employment and as it may be amended from time to time. The Executive Director shall devote his or her full time to assisting the CJCC in performing its duties and fulfilling its responsibilities.
4. The Executive Director shall perform such other tasks as the Chair may designate.
5. The Executive Director shall receive and act upon requests from CJCC members and committee chairs for staff assistance on projects or reports previously agreed to by the CJCC. The CJCC members shall be notified of any request for staff assistance on a project or report not previously agreed to by the CJCC.
6. The CJCC members shall evaluate the performance of the Executive Director. The CJCC shall memorialize the process for evaluating the performance of the Executive Director in writing and disseminate the written process to all members.

C. Membership

1. The membership of the CJCC is established by statute, pursuant to D.C. Official Code §§ 22-4233 and 22-4241.
2. The CJCC members may make recommendations to the Council of the District of Columbia to amend the membership of the CJCC. Any recommendations to Council regarding CJCC membership shall be determined pursuant to the voting procedures set forth in Section E.7. of this Memorandum of Understanding.
3. The CJCC members shall participate in CJCC activities and take such other actions as may be necessary to carry out CJCC's duties.

D. Committees

Standing Committees. The CJCC shall establish the following standing committees with the powers and duties stated. The CJCC members shall select a chair or co-chairs for each standing committee using the voting procedures established in section E.7. CJCC members shall vote on the committee chair and co-chairs at each annual strategic planning meeting. A committee chair must be a CJCC member, and at least one of the committee co-chairs must be a CJCC member. The CJCC member can delegate the chair or co-chair responsibility to a senior member of their organization's leadership team. The Executive Director shall assist the chair or co-chairs in carrying out the responsibilities of each committee. Each CJCC member shall serve on at least one committee. Additionally, CJCC members shall ensure that they have agency representatives on all relevant committees.

1. Information Technology Advisory Committee (ITAC). The ITAC shall advise and make recommendations on matters pertaining to the funding, development, operation, maintenance, and monitoring of initiatives related to the Justice Information System (JUSTIS) to improve public safety and the related criminal and juvenile justice services for District of Columbia residents, visitors, victims, and justice-involved individuals.
 - a. Membership: The ITAC shall be composed of representatives from all CJCC member agencies that are signatories to the ITAC Agreement. Non-CJCC member agencies may be invited to participate in ITAC meetings.
 - b. Powers and Duties. The power and duties of the ITAC shall be as follows:
 - i. Facilitate collaborative solutions to justice information challenges, protect the quality and integrity of justice data, and implement effective data and system security, all while recognizing the primacy of each justice agency mission.

- ii. Ensure the confidentiality of information and individual privacy, establish system-wide standards supported by common identifiers and positive identification, facilitate agency requirements for research and public access, and provide for long-term performance monitoring and evaluation.
 - iii. Provide recommendations regarding funding for information technology projects, data sharing, access to data and integration, data and system security, development of system-wide standards, implementation of real-time information and data sharing, measurement of data use and quality, and planning for expansion of JUSTIS to meet the needs of criminal and juvenile justice agencies.
 - iv. Receive and review recommendations from the workgroups it oversees, namely: the Interagency Security Workgroup, whose mission is to identify, review and recommend industry information-security best-practices and policies for information exchange among JUSTIS-involved agencies; the Interagency Data Quality Workgroup, whose mission is to identify systemic issues associated with information quality within the criminal justice system and to recommend solutions for addressing them; and the Interagency Workgroup, whose mission it is to implement ITAC-sanctioned technology based projects and initiatives.
- 2. Interagency Research Advisory Committee (IRAC). The IRAC shall serve as an advisory body to the CJCC's Statistical Analysis Center (SAC) and support the SAC in its efforts to collect and analyze data effectively as well as address research and policy questions of importance to the District's criminal and juvenile justice system.
 - a. Membership: The IRAC shall be composed of representatives from CJCC member agencies.
 - b. Powers and Duties: The power and duties of the IRAC shall be as follows:
 - i. Serve as the authority that will empower the SAC to collect and analyze partner agency's administrative data, to the extent allowed by law, regulation, court order, and agency policy. The data will be analyzed to address relevant research and policy questions raised by CJCC members and CJCC committees.
 - ii. Commission independent research studies performed by the SAC on systemic issues involving multiple

criminal and juvenile justice agencies in the District of Columbia. Prioritize research projects related to emergent criminal and juvenile justice issues.

- iii. Monitor the implementation of appropriate recommendations from commissioned research studies.

3. Combating Violent Crime Committee (CVCC) and GunStat.

- a. The CVCC shall serve as a forum for (a) information sharing among local and federal agencies regarding their efforts to combat violent crime in the District and (b) identifying opportunities for interagency collaboration to reduce violent crime and enhance public safety.

- i. Membership: The CVCC shall be composed of representatives from CJCC member agencies. Representatives of non-CJCC member agencies may be invited to serve as members of the CVCC as needed.

- ii. Powers and duties: The power and duties of the CVCC shall be as follows:

- 1. Monitor short-term and long-term violent crime trends in the District.

- 2. Identify and recommend evidence-based and data-driven policies and practices for reducing violent crime.

- 3. Serve as a forum where justice system agencies and relevant stakeholders can provide updates and seek input on their violent crime reduction efforts and explore opportunities for collaboration.

- b. GunStat shall serve as a forum for justice system agencies in the District to monitor the justice system involvement and case processing of individuals who are at high-risk of engaging in gun violence.

- i. Membership: GunStat membership shall be composed of representatives from local and federal agencies that serve an investigative, law enforcement, prosecutorial, and community supervision function in the District. Representatives of agencies that do not serve an investigative, law enforcement, prosecutorial or community supervision function, but hold responsibilities with respect to high-risk individuals,

may be invited to participate in GunStat, as appropriate.

ii. Powers and duties: The powers and duties of GunStat shall be as follows:

1. Identify individuals at high risk of engaging in gun violence in the District based on data-driven and partner agency-informed criteria.
2. Provide ongoing monitoring of the justice system involvement and victimization of the high-risk individuals.
3. Serve as a forum for recommending and sharing information regarding justice system interventions for high-risk individuals.

4. Substance Abuse Treatment and Mental Health Services Integration Taskforce (SATMHSIT). The SATMHSIT shall serve as a body for interagency collaboration to improve the treatment options for criminal-justice involved individuals with mental health issues, substance abuse problems, or co-occurring disorders.

- a. Membership: The SATMHSIT will be composed of representatives from CJCC member agencies, the Department of Behavioral Health, the Department of Health Care Finance, and community-based District of Columbia behavioral health treatment and advocacy organizations.
- b. Powers and Duties: The powers and duties of the SATMHSIT shall be as follows:
 1. Serve as a conduit for research on substance abuse and mental health issues in the District of Columbia.

11. Facilitate cross-system criminal justice and behavioral health-related education and training opportunities for CJCC members and stakeholders.
 111. Foster enhanced mental health and justice information sharing among behavioral health and criminal justice agencies to the extent permissible by federal and District law.
5. Reentry Steering Committee (RSC). The RSC shall serve as the body to support system-wide efforts to ensure the successful reentry of men and women returning to the District after incarceration, with a focus on high-risk offenders.
 - c. Membership: The RSC shall be composed of representatives from CJCC member agencies, District of Columbia housing, employment and education agencies and organizations, and representatives from community-based reentry advocacy organizations and networks.
 - d. Powers and Duties: The powers and duties of the RSC shall be as follows:
 - l. Develop and implement strategies for connecting returning citizens with housing, employment, education opportunities, and the supportive services necessary for successful reintegration.
 11. Identify opportunities for interagency collaboration, release planning, and reentry-related information sharing.
 - m. Identify gender-specific initiatives to address issues unique to women returning to the community or who have a criminal background.
6. Juvenile Justice Committee (JJC). The JJC shall serve as the executive body for the juvenile justice system and is charged with setting juvenile justice strategic priorities.
 - e. Membership: The JJC shall be composed of representatives from CJCC's juvenile justice member agencies and other relevant stakeholders from the health and human services and education sectors. Representatives of other agencies and stakeholders may be invited to serve as members as needed.

- f. Powers and Duties. The power and duties of the JJC shall be as follows:
 - 1. Identify current policy efforts to reduce redundancy and effectively utilize existing resources.
 - 2. Provide relevant and timely data on juvenile justice trends.
 - 3. Support quarterly cross-systems trainings, which shall focus on issues and topics relevant to cross-system involved youth.
 - 4. Identify and promote existing resources for the benefit of practitioners, their clients, and the community.
 - 5. Develop and identify policies that can reduce recidivism or entry into the juvenile justice system.
 - 6. Improve information sharing and coordinated case management.

Ad Hoc Committees. CJCC members interested in forming a CJCC committee for a specific project or task may do so pursuant to a vote as described in section E.7.. The members forming such a committee shall determine its structure and procedures. A report on the activities of any such committee shall be submitted to the full CJCC at least quarterly in time for inclusion on the agenda of a regular meeting. Any ad hoc committee formed under this subsection may request financial or staff assistance from the CJCC.

E. Meetings

- 1. Regular Meetings. Regular meetings of the CJCC shall be held each month at a date and time agreed to by a majority of the members. The meetings shall be convened as executive sessions. On a bi-annual basis, the meeting shall be open to the public.
- 2. Budget Meeting. A review of the CJCC's budget shall be conducted bi-annually to advise the members of the agency's administrative plans, budget approval, and budget preparation. CJCC members shall provide feedback to the Executive Director on the agency's proposed budget.
- 3. Annual Strategic Planning Session. Every year, the CJCC shall convene a strategic planning session where the CJCC members will participate and identify priority areas and set goals for the CJCC to implement throughout the year. The CJCC may readjust the priority areas as needed. The Executive Director, in consultation with the members, shall plan the agenda for the session. The Executive Director will notify all members of the session at least thirty (30) days before the session is to be held. The session will be open to the public, in conformance with D.C. Official Code § 2-571 et seq., except that a portion or portions of the meeting

may be closed to the public in the circumstances described in D.C. Code § 2-575(b).

4. **Community Meetings.** The CJCC shall convene at least two (2) community meetings annually. The meetings shall be open to the public and notice of the meetings shall be provided to the public in conformance with D.C. Official Code § 2-571 et seq.
5. **Special Meetings.** A special meeting of the CJCC may be called by the Chair or upon a request signed by at least five (5) CJCC members. The notice of the special meeting shall state the agenda of the meeting, and only matters contained in the agenda may be discussed at the special meeting. If, after a special meeting has been called, the need for a special meeting no longer exists, the Chair may cancel the special meeting with the unanimous consent of those members who requested it.
6. **Quorum.** A quorum at a regular or special meeting shall consist of two-thirds (2/3) of the CJCC members then holding office. For purposes of determining a quorum, only members identified in D.C. Official Code § 22-4233 shall be counted.
7. **Voting Procedures.** The Chair shall have the right to call for a voice vote in all cases unless any member objects, in which case a roll call vote shall be taken. A quorum is needed to carry a vote. A simple majority (more than 50 percent) of voting members present must vote in the affirmative in order for the matter that is up for a vote to be approved. No decision shall govern the activities or administration of any member agency within its separate jurisdiction. The minutes shall reflect the results of each roll call. Because the full participation of members is essential to the effectiveness of the CJCC as a mechanism for improving the administration of criminal justice, the CJCC shall attempt to act by consensus to the greatest extent possible.
8. **Participation in Meetings.**
 - a. **Voting.** Only CJCC members may vote, except that the Mayor's designee may vote in the Mayor's absence.
 - b. **General Participation.** The Mayor is the only CJCC member who may designate an alternate to participate in CJCC meetings due to the responsibilities that accompany that position.
 - c. **Written Communication.** When unable to attend a meeting, CJCC members may present signed and dated written communications that can be distributed or read to CJCC members by the Chair. Such written communication shall not be considered a proxy, vote, or motion. However, a motion may be made by other members

concerning the contents of such written communication.

- d. Discussion. The designee of a CJCC member shall have the right to address the CJCC and participate in discussion with the consent of the Chair.
9. Agenda. The CJCC shall conduct meetings according to an open agenda. Any CJCC member may have an item placed on the agenda by notifying the Executive Director two (2) business days prior to the start of the meeting.
 10. Notice to Members. An agenda, together with a notice of the time and place of all regular meetings, shall be distributed to CJCC members at least five (5) business days prior to the meeting date. The Chair may postpone or reschedule a regular or special meeting upon notice provided at least twenty-four (24) hour notice before the scheduled meeting. Notice of the postponement or rescheduling shall be provided by telephone, email, mail, in person, or equivalent. Notice of the rescheduled meeting date shall be provided at least forty-eight (48) hours before the meeting is scheduled to be held.
 11. Public Notice. The Executive Director shall provide public notice of regular, rescheduled, and special meetings when required by law, in conformance with D.C. Official Code § 2-571 et seq.
 12. Minutes. The Executive Director shall draft and forward the minutes of each regular meeting to CJCC members prior to the next CJCC meeting.
 13. Members may meet by telephone or electronic means to take action so long as all members are given at least forty-eight (48) hours' notice.

IV. CHANGES TO MOU

The Executive Director or any CJCC member may propose amendments to this MOU. This MOU may be amended at a regular or special meeting of the CJCC, provided that all of the members vote to approve the proposed amendment. CJCC members shall review the MOU at least once every five (5) years to determine whether any amendments are needed.

V. SIGNATURES:

Dated: November 16, 2022

Mayor of the District of Columbia

Muriel Bowser

Chairman
Council of the District of Columbia

Phil Mendelson

Chairperson
Committee on the Judiciary and Public Safety,
Council of the District of Columbia

Charles Allen

Director
Department of Youth Rehabilitation Services

Hilary Cairns

Hilary Cairns

Director
Public Defender Service

Heather Pinckney

Chief Judge
Superior Court of the District of Columbia

Anita Josey-Herring

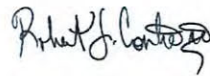
Director
Federal Bureau of Prisons

Collette Peters
Collette S. Peters

Director
Court Services and Offender Supervision
Agency

Richard Tischner

Chief
Metropolitan Police Department



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Robert J. Contee III

Chairman
U.S. Parole Commission

Patricia Cushwa

box SIGN 1K27J51-15V6WZP4

Patricia Cushwa

U.S. Marshal for the Superior Court of the
District of Columbia



box SIGN 15K29XK1-15V6WZP4

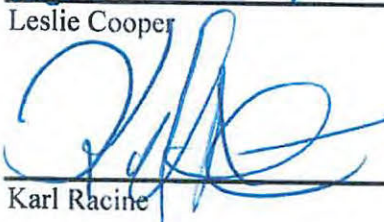
Robert A. Dixon

Director
Pretrial Services Agency



Leslie Cooper

Attorney General for the District of Columbia



Karl Racine

Director
Department of Corrections

Thomas Faust

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Thomas Faust

U.S. Attorney for the District of Columbia



Matthew Graves

Interim Executive Director
Office of Victim Services and Justice Grants



Cheryl Bozarth



**BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
GOVERNMENT OF THE DISTRICT OF COLUMBIA**



February 6, 2025



RE: Whether the DC Criminal Justice Coordinating Council is a public body subject to the Open Meetings Act (OOG-2024-0010).

Dear [REDACTED]

On September 1, 2024, the Office of Open Government (OOG) received your request on behalf of [REDACTED] for an Advisory Opinion on whether the District of Columbia Criminal Justice Coordinating Council (CJCC) is a public body subject to the Open Meetings Act (OMA) (“Complaint”).¹ OOG assigned the Complaint as # OOG-2024-0010.

This question has been posed to OOG before, including in a March 2022 inquiry from CJCC Executive Director Kristy Love, regarding the applicability of the OMA to the CJCC.² To date, OOG has relied on guidance provided in 2016 by former Director of Open Government, Traci Hughes, which advised that the CJCC was not a public body as defined by the OMA.³ In response to DCOGC’s request, I am issuing this provisional Advisory Opinion, pursuant to D.C. Official Code § 1-1162.05c, which supersedes the previous guidance provided by this office.

CJCC received the Complaint on January 16, 2025. On January 24, 2025, I, along with members of my staff, met via videoconference with CJCC Executive Director Love and a member of her staff to gather information about CJCC operations. Based upon review of the Complaint and my discussion with Director Love, I am issuing this provisional Advisory Opinion, pursuant to DCMR § 10405.2. CJCC may provide a formal response to the Complaint and/or to the points contained in this document, within thirty business (30) days. If CJCC elects not to respond, this Advisory Opinion will become final.

The OMA reiterates the District of Columbia government’s (the “District”) long-standing public policy that all persons are entitled to full and complete information regarding the affairs of

¹ D.C. Official Code § 2-571 *et seq.*

² March 9, 2022, email from CJCC Executive Director Kristy Love to OOG Director Niquelle Allen inquiring about previous OOG guidance regarding the applicability of the OMA to the CJCC.

³ September 13, 2016, Advice from former Director of Open Government, Traci Hughes. Available at https://www.open-dc.gov/CJCC_OMA_2016

government and the actions of those who represent them.⁴ To support this policy, the OMA provisions “shall be construed broadly to maximize public access to meetings.”⁵ After researching this matter I find that the CJCC is an independent agency which functions as an advisory body within the OMA definition of a public body and that the CJCC’s scope and purpose constitute public business under the OMA. Therefore, I conclude that meetings of the CJCC are subject to the OMA.

This provisional Advisory Opinion sets forth the rationale for these findings below. It provides background on the CJCC, an analysis of the issue, and concludes with recommendations for OMA compliance.

I. BACKGROUND

The CJCC is an expansion of a December 10, 1996, Memorandum of Understanding (MOU) among the Mayor of the District of Columbia (the “Mayor”); the Council of the District of Columbia; the Chief Judge of the Superior Court of the District of Columbia; the United States Attorney for the District of Columbia; the Corporation Counsel of the District of Columbia (now the Office of the Attorney General for the District of Columbia); and the Financial Responsibility and Management Assistance Authority (Authority).⁶ These MOU Partners originally met to oversee a comprehensive reform of the Metropolitan Police Department (MPD).⁷

In August 1997, the National Capital Revitalization and Self-Government Improvement Act of 1997 (Revitalization Act) was signed into law.⁸ The Revitalization Act authorized the federal government to assume responsibility for some of the District of Columbia’s criminal justice functions.⁹ The MOU partners began to informally expand their membership and agenda to address more comprehensive, systemwide criminal justice issues, including findings in the Revitalization Act.¹⁰

On May 28, 1998, the Criminal Justice Coordinating Agreement Resolution of 1998 (PR 12-832) was passed. The Resolution authorized the “coordination of the criminal justice system in the District of Columbia, with the Mayor of the District of Columbia, the Chief of the Metropolitan Police Department, the Chief Judge of the Superior Court of the District of Columbia, the United States Attorney for the District of Columbia, the Corporation Counsel of the District of Columbia, the Chief Management Officer, the Corrections Trustee of the District of Columbia, the Offender Supervision Trustee of the District of Columbia, and three members

⁴ D.C. Official Code § 2-572.

⁵ D.C. Official Code § 2-573.

⁶ United States General Accounting Office (GAO) March 2001 Report “D.C. Criminal Justice System, Better Coordination Needed Among Participating Agencies” pg. 44; report available at <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/CJCC%20GAO%20Report.pdf> ; *see also*, Criminal Justice Coordinating Agreement Resolution of 1998 PR 12-832, <https://www.dccwatch.com/archives/council/12/12-832.html>

⁷ GAO March 2001 Report “D.C. Criminal Justice System, Better Coordination Needed Among Participating Agencies” pg. 44.

⁸ <https://cjcc.dc.gov/am/page/history-cjcc>

⁹ *Id.*

¹⁰ GAO March 2001 Report “D.C. Criminal Justice System, Better Coordination Needed Among Participating Agencies” pg. 44; <https://cjcc.dc.gov/am/page/history-cjcc>

of the District of Columbia Financial Responsibility and Management Assistance Authority.”¹¹ The Resolution rescinded and replaced the original December 10, 1996 MOU.¹² The CJCC continues to operate pursuant to a Memorandum of Understanding between its members, which is discussed further below.

In 1999, Congress passed the District of Columbia Appropriations Act, 2000, which mandated that the U.S. Government Accountability Office (GAO) assess and report on the District of Columbia criminal justice system. The GAO released a report entitled DC Criminal Justice System, Better Coordination Needed Among Participating Agencies,¹³ which noted that the CJCC was the best forum for the District’s criminal justice agencies to identify and address public safety issues that involved multiple criminal justice agencies.¹⁴ In 2001, the GAO recommended that the CJCC be formally established as an independent agency.¹⁵

Subsequently, in 2001, the D.C. Council enacted the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 (D.C. Law 14-28; D.C. Official Code § 22-4231, et seq.), which established the CJCC as an independent agency within the District of Columbia.¹⁶ In 2002, Congress passed the Criminal Justice Coordinating Council Restructuring Act of 2002 (P.L. 107-180), which authorized the heads of federal agencies to participate as members of the CJCC. The Act also authorized federal funding to be appropriated to support CJCC operations.¹⁷

In 2004, CJCC members voted to establish a co-chair, a federal or judicial CJCC member to serve along with the Mayor in furtherance of the agency’s mission.¹⁸ Currently, the Mayor and the United States Attorney for the District of Columbia are the co-chairs of the CJCC. The CJCC Memorandum of Understanding (MOU)¹⁹ provides that “the Mayor may designate the Deputy Mayor for Public Safety and Justice as Chair Pro Tempore in the Mayor’s absence.”²⁰ The remaining CJCC members are (1) the Chairman of the Council of the District of Columbia; (2) the Chairperson of the Judiciary Committee, Council of the District of Columbia; (3) the Chief Judge of the Superior Court of the District of Columbia; (4) the Chief of the Metropolitan Police Department; (5) the Director of the Department of Corrections; (6) the Attorney General for the District of Columbia; (7) the Director of the Department of Youth Rehabilitation Services; (8) the Director of the Public Defender Service; (9) the Director of the Pretrial Services Agency; (10) the Director of Court Services and Offender Supervision Agency; (11) the Director

¹¹ History of the CJCC, found at <https://cjcc.dc.gov/am/page/history-cjcc>

¹² Criminal Justice Coordinating Agreement Resolution of 1998 PR 12-832,

<https://www.dccwatch.com/archives/council/12/12-832.html>

¹³ <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/CJCC%20GAO%20Report.pdf>

¹⁴ <https://cjcc.dc.gov/am/page/history-cjcc>

¹⁵ *Id.*

¹⁶ CJCC 2023 Annual Report, pg. 8; report available at

<https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/CJCC%202023%20Annual%20Report.pdf>

¹⁷ *Id.*

¹⁸ <https://cjcc.dc.gov/am/page/history-cjcc>

¹⁹ The Memorandum of Understanding is a document signed by the members of the CJCC which outlines the mission, legislative enactment, and organization of the council. It outlines the roles and responsibilities of the officers and executive director; membership and committees; and meetings. The MOU also provides for amendments to and review of the MOU by CJCC members at least once every five (5) years. A copy of the most recent MOU can be found at:

https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/page_content/attachments/CJCC%20MOU_signed%203-6-23_0.pdf

²⁰ The Criminal Justice Council for the District of Columbia Memorandum of Understanding Section III (A)(1).

of the Federal Bureau of Prisons; (12) the Chair of the United States Parole Commission; (13) the United States Marshall, Superior Court of the District of Columbia; (14) the Executive Director of the Office of Victim Services and Justice Grants; (15) the Executive Director of the Office of Neighborhood Safety and Engagement; (16) the Director of the Office of Gun Violence Prevention; and (17) the Chairperson of the District of Columbia Sentencing Commission.²¹

For the purposes of establishing a quorum, the CJCC MOU provides that “a quorum at a regular or special meeting shall consist of two thirds (2/3) of the CJCC members then holding office. For purposes of determining a quorum, only members identified in D.C. Official Code § 22-4233 shall be counted.”²² I would note that, there are 19 members of the CJCC, so a quorum of two thirds of the members would be thirteen (13). In Fiscal Year 2024 (FY24), there was never a meeting in which the CJCC reached a quorum as defined in its MOU.²³ The maximum number of members who attended a meeting in FY24 was eleven (11).²⁴

With respect to the structure of its meetings, the CJCC MOU states that “regular meetings of the CJCC shall be held each month at a date and time agreed to by a majority of the members. The meetings shall be convened as executive sessions. On a bi-annual basis, the meeting shall be open to the public.”²⁵ The MOU goes on to specifically discuss these bi-annual public meetings which it terms “Community Meetings.” The MOU states “the CJCC shall convene at least two (2) community meetings annually. The meetings shall be open to the public and notice of the meetings shall be provided to the public in *conformance with* [emphasis mine] D.C. Official Code § 2-571 *et seq.*”²⁶ The CJCC Director has stated that Community Meetings require more planning than regular meetings, as the CJCC’s federal participants have an internal process for preparing for participation in public meetings.²⁷

Additionally, the CJCC holds an annual strategic planning session where the CJCC members “participate and identify priority areas and set goals for the CJCC to implement throughout the year.”²⁸ The MOU notes that “the session will be open to the public, in conformance with D.C. Official Code § 2-571 *et seq.*, except that a portion or portions of the meeting may be closed to the public in circumstances described in D.C. Code § 2-575(b).”²⁹

The CJCC describes its mission as serving “...as a forum for identifying challenges and generating solutions to enhance public safety and fair administration of justice for District of Columbia residents, visitors, victims, and justice-involved individuals. The CJCC facilitates information sharing and collaboration, conducts research and analysis, and provides training and technical assistance on behalf of its District and federal member agencies.”³⁰

The District of Columbia Code outlines the following duties for the CJCC:

²¹ D.C. Official Code § 22-4233; CJCC 2023 Annual Report, pg. 7.

²² *Id.* at section III (E)(6).

²³ January 29, 2025, email correspondence with CJCC Executive Director Love.

²⁴ *Id.*

²⁵ The Criminal Justice Coordinating Council for the District of Columbia Memorandum of Understanding section III (E)(1).

²⁶ *Id.* at section III (E)(4).

²⁷ January 24, 2025, videoconference with CJCC Executive Director Kristy Love.

²⁸ *Id.* at section III (E)(3).

²⁹ *Id.*

³⁰ CJCC 2023 Annual Report, pg. 2.

(a) The Criminal Justice Coordinating Council shall:

- (1) Make recommendations concerning the coordination of the activities and the mobilization of the resources of the member agencies in improving public safety in, and the criminal justice system of, the District of Columbia;
- (2) Cooperate with and support the member agencies in carrying out the purposes of the CJCC;
- (3) Define and analyze issues and procedures in the criminal justice system, identify alternative solutions, and make recommendations for improvements and changes in the programs of the criminal justice system;
- (4) Receive information from, and give assistance to, other District of Columbia agencies concerned with, or affected by, issues of public safety and the criminal justice system;
- (5) Make recommendations regarding systematic operational and infrastructural matters as are believed necessary to improve public safety in the District of Columbia and federal criminal justice agencies;
- (6) Advise and work collaboratively with the Office of the Deputy Mayor for Public Safety and Justice, Justice Grants Administration in developing justice planning documents and allocating grant funds;
- (7) Select ex-officio members to participate in Criminal Justice Coordinating Council planning sessions and subcommittees as necessary to meet the organization's goals;
- (8) Establish measurable goals and objectives for reform initiatives; and
- (9) Conduct research and analysis on matters affecting public safety and criminal justice, including research and analysis utilizing behavioral health, physical health, employment, and education data.³¹

Next is a discussion of whether the CJCC is a public body that is subject to the requirements of the OMA.

II. DISCUSSION

Before turning to my analysis, there are two initial matters I will address. First, the Complaint provides examples of criminal justice coordinating councils in other jurisdictions that are statutorily required to adhere to their local open meetings laws.³² Additionally, the Complaint cites Standards for Councils, issued by the U.S. Department of Justice (DOJ), which state that

³¹ D.C. Official Code § 22-4234; CJCC 2023 Annual Report, pg. 9.

³² See [REDACTED], pp. 2-3.

“CJCC meetings are open to the public and allow time for public comment on the agenda.”³³ CJCC Executive Director Love reported that she is aware that CJCCs in other jurisdictions are subject to open meetings laws, and she is familiar with the standards and best practices for CJCCs recommended by DOJ.³⁴ While the practices of other jurisdictions and the guidance provided by DOJ are informative, they are not dispositive to the question as it relates to the DC CJCC. As described above, the criminal justice system of the District of Columbia is a unique hybrid of local and federal administration, as reflected in the creation and composition of the CJCC. Therefore, my analysis relies on interpretation of the provisions of the OMA as it relates specifically to the CJCC.

Secondly, I note that CJCC receives some federal funding to support its operations.³⁵ CJCC Executive Director Love reports that approximately 55% of the CJCC’s 2025 budget comes from federal funding.³⁶ As opposed to grants, these funds are appropriated directly from Congress.³⁷ While the CJCC has reporting requirements to Congress (in addition to the Council of the District of Columbia)³⁸, there is nothing in the record to indicate that the CJCC’s federal funding has any stipulations which would alter or affect its designation as an advisory body and independent agency of the Government of the District of Columbia as discussed below.

A. The CJCC is a public body based on the plain meaning of the statute.

The threshold question in determining whether a public body is subject to the OMA is whether the entity falls under the “public body” definition in the statute. The OMA defines a “public body” as “any government council, including the Council of the District of Columbia, board, commission, or similar entity, including a board of directors of an instrumentality, a board which supervises or controls an agency, or an advisory body that takes official action by the vote of its members convened for such purpose.”³⁹

The OMA also excludes particular bodies from its requirements, including a “District agency or instrumentality (other than the board which supervises or controls an agency or the board of directors of an instrumentality).”⁴⁰

As noted above, the question of whether the CJCC is a public body, subject to the OMA, has arisen before. In September 2016, in response to a request from Mannone A. Butler, the former executive director of the CJCC, former OOG Director Traci Hughes issued the following advice on the subject:

³³ *Id.* See also, Standard 7.3 Thomas Eberly and Aimee Wickman, National Standards for Criminal Justice Coordinating Councils (U.S. Department of Justice, National Institute of Corrections, 2023), pp. 29-30. Available at: <https://jmijustice.org/wp-content/uploads/2024/01/National-Standards-for-CJCCs.pdf>

³⁴ January 24, 2025, videoconference with CJCC Executive Director Love.

³⁵ https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/fj0_cjcc_chapter_2025j.pdf

³⁶ January 24, 2025, videoconference with CJCC Executive Director Kristy Love.

³⁷ *Id.*

³⁸ D.C. Official Code § 22-4242.

³⁹ D.C. Official Code § 2-574(3).

⁴⁰ D.C. Official Code § 2-574(3)(A).

Please consider this email a formal reply to your inquiry regarding whether the Criminal Justice Coordinating Council (CJCC) may be considered a board or commission as contemplated by the Open Meetings Act (D.C. Official Code § 2-571, *et seq.* (2016)). I have reviewed the enabling statute governing the CJCC, D.C. Official Code § 22-4231, *et seq.* (2016), and have determined that the CJCC is not a public body as defined by the Open Meetings Act (D.C. Official Code § 2-574(3)(A)). On its face, the CJCC, would be an independent agency meeting the criteria of a board or commission of the District of Columbia as defined in D.C. Official Code § 1-603.01(13)). However, the CJCC, albeit not subject the administrative control of the Mayor, effectively acts as an agency, and not a board or commission (i.e. Public Body), as the CJCC has independent personnel authority. Public bodies which fall under the requirements of the OMA do not have separate personnel authority from the agency which governs them.⁴¹

After reviewing the enabling statute governing the CJCC (D.C. Official Code § 22-4231, *et seq.* (2016)), the CJCC Memorandum of Understanding (MOU), and the relevant definitions in the D.C. Code, I have reached a different conclusion from former Director Hughes. District of Columbia Official Code § 22-4232 sets forth the establishment of the CJCC. It states that “there is established as an independent agency within the District of Columbia government the Criminal Justice Coordinating Council.” The term “independent agency” means any board or commission of the District of Columbia government not subject to the administrative control of the Mayor.⁴²

The crux of former director Hughes’ rationale for finding that the CJCC is not a public body is that it effectively acts as an agency.⁴³ As stated above, the OMA explicitly excludes District agencies from the public body definition. As support for this contention, former Director Hughes noted that the CJCC has independent personnel authority and asserted that public bodies, which fall under the requirements of the OMA, do not have separate personnel authority from the agency which governs them. However, this assertion is not entirely accurate. For instance, the Board of Ethics and Government Accountability (BEGA) has independent personnel authority but is subject to the requirements of the OMA. BEGA as a board “supervises and controls” the agency of the same name, as well as “takes action by the vote of its members.”⁴⁴ Therefore, I find that independent personnel authority, standing alone, is not dispositive to the question of whether an entity constitutes a public body.

Moreover, the plain language of D.C. Official Code § 22-4232 distinctly establishes that the CJCC is an independent agency rather than an agency. Several independent agencies, including BEGA; the Board of Trustees of the University of the District of Columbia; the Board of Elections; and the Public Employee Relations Board, are subject to the provisions of the OMA. As former Director Hughes noted in her guidance, “on its face, the CJCC would be an

⁴¹ September 13, 2016, Advice from former Director of Open Government, Traci Hughes. Available at https://www.open-dc.gov/CJCC_OMA_2016

⁴² D.C. Official Code § 1-603.01(13).

⁴³ The term “agency” means any unit of the District of Columbia government required by law, by the Mayor of the District of Columbia, or by the Council of the District to administer any law, rule, or any regulation adopted under authority of law. The term “agency” shall also include any unit of the District of Columbia government created by the reorganization of 1 or more of the units of an agency and any unit of the District of Columbia government created or organized by the Council of the District of Columbia as an agency. The term “agency” shall not include the Council. (D.C. Official Code § 1-603.01(1)).

⁴⁴ D.C. Official Code § 2-574(3).

independent agency meeting the criteria of a board or commission of the District of Columbia as defined in D.C. Official Code § 1-603.01(13)).” As the CJCC’s enabling statute establishes that it is an independent agency, there is no basis to construe it as an agency defined in D.C. Official Code § 1-603.01(1). Furthermore, as the definition of an independent agency is any board or commission of the District of Columbia government not subject to the administrative control of the mayor⁴⁵, it is reasonable to conclude that the CJCC is a public body as contemplated by the OMA.

The CJCC’s status as an independent agency notwithstanding, it is also evident that it functions as “an advisory body that takes official action by vote of its members convened for such purpose.”⁴⁶ By law, the CJCC makes policy recommendations in multiple areas.⁴⁷ Its statutory duties also include specific reference to providing advice to the Office of the Deputy Mayor for Public Safety and Justice.⁴⁸

Thus, the plain meaning of CJCC’s enabling statute and the definition of independent agency leads to the conclusion that CJCC is a public body. The nature of its activities, discussed below, establish that this public body is subject to the OMA.

B. The CJCC meets to discuss, recommend, and prepare reports for the Mayor and the Council of the District of Columbia and these gatherings constitute meetings under the OMA.

The OMA looks to: the nature of a meeting, the presence of a quorum, and whether the public body is gathering to consider, conduct, or advise on public business, including gathering information, taking testimony, discussing, deliberating, recommending, and voting, regardless of whether held in person, by telephone, electronically, or by other means of communication.⁴⁹

In this instance, the purpose and scope of the CJCC are clear. It is to provide advice and make policy recommendations to the Mayor, the Council of the District of Columbia (Council), as well as to member agencies of the CJCC regarding public safety in the District. Additionally, the CJCC’s enabling statute specifically requires it to make reports on an annual basis on the status and progress of its goals and objectives.⁵⁰ It is also worth noting that the CJCC maintains a policy division in furtherance of its mission.⁵¹

These activities are most certainly public business under the OMA. Its purpose is to provide advice and make recommendations concerning public business related to public safety and the criminal justice system in the District of Columbia. The CJCC meets to consider, conduct and advise on the affairs of government that relate to public safety. When a public body meets to consider, conduct or advise on public business, the OMA provides the public with the right of advance notice so they may attend open sessions of public body meetings and access to

⁴⁵ D.C. Official Code § 1-603.01(13).

⁴⁶ D.C. Official Code § 2-574(3).

⁴⁷ D.C. Official Code §§ 22-4234(a)(1); 22-4234(a)(3); 22-4234(a)(5).

⁴⁸ D.C. Official Code § 22-4234(a)(6).

⁴⁹ D.C. Official Code § 2-574(1).

⁵⁰ D.C. Official Code § 22-4234(b).

⁵¹ CJCC 2023 Annual Report, pg. 9.

meeting records.⁵² Given the District’s “public policy,”⁵³ the statutory purview of the CJCC, and the impact of its recommendations on public safety and the criminal justice system in the District, I conclude that the CJCC functions as an advisory body, and is a public body as contemplated under the OMA. Therefore, its meetings are subject to the OMA.

I would note that, as stated above, regular “meetings” of the CJCC occurred without a quorum throughout FY24. Under the OMA, one of the requirements for a meeting is the presence of a quorum.⁵⁴ The absence of a quorum at meetings does not change my determination that CJCC is a public body subject to the OMA. Rather, it suggests that the CJCC has not met the requirements of its own MOU and may need to better differentiate between meetings and actions of the agency versus official meetings and actions taken by the CJCC itself, i.e. those statutorily defined members who constitute the council. Nonetheless, the provisions of the OMA apply to the CJCC, and a quorum is required whenever the CJCC gathers to consider, conduct, or advise on public business.

C. The CJCC may convene in closed executive sessions where appropriate and done in accordance with applicable OMA exemptions and procedures.

The CJCC currently conducts its regular meetings in executive session and these meetings are closed to the public. The Open Meetings Act does not turn a blind eye to the necessity of public bodies to be able to have frank and candid discussions in private. For that reason, the OMA shields from discussion in an open forum matters such as proprietary interests, contract negotiations, or matters that require confidentiality pursuant to law or court order.⁵⁵ Where applicable, the CJCC may continue to conduct its business in executive session, if it has a legitimate reason to do so, by appropriately utilizing the exemptions and following the procedures set forth in the OMA⁵⁶. Additionally, the CJCC MOU already establishes procedures for holding its annual strategic planning session as well as public meetings in conformance with the provisions of the OMA.⁵⁷ This suggests both a willingness and the ability to conduct business in accordance with the OMA for the greater purpose of providing transparency to the citizens of the District of Columbia with respect to the important area of public safety and criminal justice. Notwithstanding, the CJCC must conduct all its meetings in accordance with the OMA.

III. CONCLUSION

Based on the foregoing, I find that the CJCC is an advisory body which falls within the OMA’s definition of a public body, and its scope and purpose constitute public business under the OMA. Therefore, the CJCC is a public body, and its meetings are subject to the OMA. My

⁵² D.C. Official Code §§ 2-575; 2-576; 2-578.

⁵³ D.C. Official Code § 2-572.

⁵⁴ D.C. Official Code § 2-574 (1).

⁵⁵ D.C. Official Code § 2-575(b) establishes the categories of exemptions to the Open Meetings Act.

⁵⁶ D.C. Official Code § 2-575(b).

⁵⁷ See CJCC MOU section III (E)(3); section III (E)(4).

conclusion is subject to CJCC's response, within 30 days of the issuance of this provisional Advisory Opinion.

As previously stated, the practical impact of this provisional Advisory Opinion is that a majority of CJCC's members must "meet in a public session" and "vote in favor of closure" (executive session) for any of the reasons set forth in D.C. Official Code § 2-575(b). CJCC's presiding officer must also state the reason for closure and state the relevant code provisions that provide the justification for the executive session. CJCC must also provide "[a] copy of the roll call vote and the statement" in writing and make it publicly available.

Further, to ensure future conformance with the OMA, the CJCC must designate a member or support staff representative who will serve as the administrative point of contact for OOG. The administrative point of contact, and those that the CJCC designates, must receive OMA training at the earliest date. Additionally, OOG may provide advice and guidance to the CJCC as to whether a particular subject matter may be exempted from discussion in a public meeting and the process for doing so, per the OMA.

Sincerely,

A handwritten signature in dark ink, reading "Niquelle Allen", is positioned above a horizontal line.

Niquelle M. Allen
Director of Open Government
Board of Ethics and Government Accountability