



D.C. Criminal Code Reform Commission
441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001
(202) 442-8715 www.ccrdc.dc.gov

MINUTES OF PUBLIC MEETING

WEDNESDAY, JANUARY 8, 2020, at 10:00 AM
CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW
WASHINGTON, D.C. 20001

On Wednesday, January 8, 2020 at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held in Room 1112 at 441 Fourth St., N.W., Washington, D.C. The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or richard.schmechel@dc.gov.

Commission Staff in Attendance:

Richard Schmechel (Executive Director)	Jinwoo Park (Senior Attorney Advisor)
Patrice Sulton (Senior Attorney Advisor)	Rachel Redfern (Senior Attorney Advisor)
Gabrielle Green (Attorney Advisor)	Blair Martinez (Legal Fellow)

Advisory Group Members and Guests in Attendance:

Laura Hankins (Designee of the Director of The Public Defender Service for the District Of Columbia)	Elana Suttentberg (Designee of the United States Attorney for the District of Columbia)
Kevin Whitfield (Designee of the D.C. Council Committee on the Judiciary and Public Safety) (by phone)	Dave Rosenthal (Designee of the D.C. Attorney General)
Don Braman (Council Appointee)	

I. Welcome and Announcements.

- a. The Executive Director welcomed Gabrielle Green, a new attorney advisor with the CCRC, and Blair Martinez, a legal fellow and GW Law School student who will work with the agency for the semester.
- b. The Executive Director noted that the deadline for written comments on the First Drafts of Reports #42-49 has been extended from January 15, 2020 to January 24, 2020.
- c. The Executive Director said that the CCRC plans to issue another update to the revised code around mid-February. The update will include appendices that address Advisory Group comments, as well as any new changes made by CCRC staff.
 - i. The Executive Director also stated that the comments to reports #42-49 will be incorporated into the updated materials to be produced in February, 2020.
- d. The Executive Director noted that the CCRC currently intends to produce a version of the criminal code for a vote by the Advisory Group in June, 2020.
- e. The Executive Director noted that although the Council may provide a funding extension, the CCRC currently is proceeding under the assumption that work will terminate in September, 2020.

II. The Advisory Group discussed the Draft Reports #42 - #49 and Memoranda #26 - #28 Currently Under Advisory Group Review.

- a. The OAG representative noted that its office is still coming to a decision about whether the scope of the offense should be narrowed to exclude possession of open containers outside of a vehicle.
 - i. With respect to open containers in vehicles, OAG stated it may recommend that offense be consistent with the current impaired driving statutes.
 - ii. Specifically, OAG notes that it may recommend altering the definitions to be consistent with the current definitions under Title 50, instead of relying on definitions used in Federal statutes.
 - iii. OAG noted that current impaired driving statutes include both operating a vehicle and being in physical control of the vehicle while under the influence of alcohol. OAG may recommend that the open container statute should be amended to include possessing an open container while being in physical control of the vehicle.
- b. The OAG representative asked whether other jurisdictions have alternate civil enforcement mechanisms in place to address decriminalized conduct. The OAG representative specifically referenced the CCRC recommendation to decriminalize vending without a license as an example.
 - i. The Executive Director noted that developing a civil regulatory regime to address decriminalized conduct may be beyond the scope of the CCRC's statutory mandate to address criminal statutes. The CCRC may note if other jurisdictions have implemented alternate enforcement mechanisms and may choose to issue decriminalization recommendation, but the Council will have to decide how to further address civil enforcement.
 - ii. The PDS Representative noted that this issue arose with decriminalization of possession of marijuana. It was unclear how to create a civil enforcement mechanism to penalize public use of marijuana.

- iii. The Executive Director noted that with respect to illegal vending, there are civil remedies currently in place, which would not be changed by decriminalization.
- iv. The OAG representative said that current practice is that law enforcement relies on criminal remedies, not the civil remedies.
- c. The OAG representative asked whether the CCRC's recommendation with respect to possession of an open container would have any effect on criminalization of public use of marijuana.
 - i. The Executive Director said that public consumption of marijuana would still be criminalized, but not public possession of alcohol or public intoxication.
- d. The Executive Director asked if there were any other general questions relating to Reports #26-28. The Executive Director noted that the CCRC works with an outside data analyst to analyze the Superior Court data. The CCRC may request additional data from the Court, and may request additional analysis of prior and additional data.
 - i. Don Braman asked if for the purposes of work with the Commission, Advisory Group members could have access to the court data.
 - ii. The Executive Director said that the CCRC cannot provide the raw data, but that Advisory Group members may request of the Executive Director that additional analysis to be performed by the outside data analyst.

III. The Advisory Group discussed Written Comments on First Draft of Report #41, Ordinal Ranking of Maximum Imprisonment Penalties.

- a. The Executive Director noted that the CCRC hopes to produce some commentary with respect to at least some penalty recommendations, but that due to time constraints, it likely would not provide commentary discussing the rationale for every penalty recommendation.
- b. The Executive Director noted that in general, the public opinion surveys and court data were taken seriously in making penalty recommendations. The survey responses were particularly relevant to recommendations with respect to penalties for weapons, and the Executive Director suggested Advisory Group members review the survey results for a direct examination of District voters opinions.
- c. The Executive Director said that the February update will include fairly brief commentary with respect to comments about penalty recommendations, but that the CCRC intends to produce more detailed commentaries at a later time.

IV. Adjournment.

- a. The meeting was adjourned at 11:00 pm.