



D.C. Criminal Code Reform Commission

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

MINUTES OF PUBLIC MEETING

WEDNESDAY, MARCH 3, 2021, at 10:00 AM

On Wednesday, March 3, 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 telephonically at (650) 479-3208 (access code: 180 216 5030). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or ccrc@dc.gov.

Commission Staff in Attendance:

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Margarita Bronshteyn (Social Scientist)

Advisory Group Members and Guests in Attendance:

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)

Nishant Keerikkatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)

Paul Butler (Council appointee)

Elana Suttentberg (Designee of the Acting United States Attorney's Office for the District Columbia)

Seema Gajwani (Visiting Attendee of the Office of the Attorney General of the District of Columbia)

Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)

Dave Rosenthal (Designee of the Attorney General of the District of Columbia)

I. Welcome and Announcements.

- a. The Executive Director noted that the CCRC has posted a vacancy announcement and that the vacancy remains open. He solicited any references to potential applicants.
- b. The Executive Director noted that after the scheduled vote on the final recommendations, the formal role of the Advisory Group will end, but hopes that the agencies represented on the Advisory Group will continue to work with the CCRC in future efforts to update and revise the criminal code. He said that he will be in touch via a letter to agencies and individuals in late March or early April about an informal role providing comments in the future.
- c. The Executive Director noted that the CCRC has contracted with the Justice Policy Institute (JPI) to help with communications regarding the reform recommendations, and representatives from JPI may contact Advisory Group members in March or April.

II. The Advisory Group discussed the Planned March 24, 2021 Advisory Group Vote on the CCRC Final Recommendations

- a. The Executive Director provided a summary of the expected voting procedure for the final set of recommendations. The Executive Director stated that there will be a single question up for a vote: “Whether to approve the criminal code reform recommendations and background materials contained in Report #70 and Memorandum #42, subject to any typographical and formatting changes recommended by agency staff, for submission to the Council and Mayor for their due consideration.”
- b. The Executive Director said that Report #70 and Memo #42 are the two documents that will be sent to Advisory Group members on March 10th.
- c. The Executive Director noted that the five voting members can vote for, against, or abstain. Under the agency’s authorizing statute, a majority of the Advisory Group members must vote in favor in order for the recommendations to be submitted to the Council and Mayor. If a majority of the Advisory Group votes to approve, the CCRC will submit the recommendations to the Council and Mayor sometime the following week, on or by March 31. The recommendations will be accompanied with a transmittal memo from the Executive Director that will describe the basic process used to generate the recommendations and background materials, the organization of the documents attached, and thank the Advisory Group members and staff for their service.
- d. The Executive Director noted that if the vote cannot be held on March 24, 2021, there is a backup dates scheduled for March 26, 2021.
- e. The representative from the United States Attorney’s Office asked if the meeting scheduled for March 17, 2021 will still be held. The Executive Director asked Advisory Group members to keep the meeting on their schedules in case there is need for a group discussion as to any issues with respect to Report #70 once the document is sent out March 10. However, he said that he does not expect there to be a need for further meetings besides the March 24, 2021 vote.

- III. The Advisory Group discussed the First Draft of Report #69 - Cumulative Update to Class Imprisonment Terms and Classification of RCC Offenses.**
- a. The Executive Director noted that the CCRC has received all CRAG comments and is still in the process of reviewing and responding to them.
 - b. The representative from the Office of the Attorney General asked if under the proposed *de minimis* defense, whether the objective degree of harm caused is the sole consideration, or if surrounding circumstances may be taken into consideration.
 - c. The Executive Director stated that, if he apprehended the question correctly, surrounding circumstances may well be relevant to determining if conduct was *de minimis*. However, the Executive Director noted that the CCRC has been making further revisions to the *de minimis* defense in light of prior comments from OAG and others, and that both the prior and updated versions in the RCC are generally consistent with the considerations specified under the Model Penal Code *de minimis* statute which is followed by multiple states.
- IV. The Advisory Group had no questions regarding Advisory Group Memorandum #41 - Supplemental Materials to the First Draft of Report #69.**
- V. Adjournment.**
- a. There being no further questions, the meeting was adjourned at 10:30 a.m.