



D.C. Criminal Code Reform Commission
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MINUTES OF PUBLIC MEETING

WEDNESDAY, FEBRUARY 5, 2020, at 10:00 AM
CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW
WASHINGTON, D.C. 20001

On Wednesday, February 5, 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)	Rachel Redfern (Senior Attorney Advisor)
Jinwoo Park (Senior Attorney Advisor) (by phone)	Patrice Sulton (Senior Attorney Advisor)
Gabrielle Green (Attorney Advisor)	Blaire Martinez (Legal Fellow)

Advisory Group Members and Guests in Attendance:

Laura Hankins (Designee of the Director of Public Defender Service for the District of Columbia)	Katerina Semyonova (Visiting Attendee of Public Defender Service for the District of Columbia)
Elana Suttentberg (Designee of United States Attorney for the District Columbia)	Dave Rosenthal (Designee of the D.C. Attorney General)
Paul Butler (Council Appointee) (by phone)	Don Braman (Council Appointee)

I. Welcome and Announcements.

- a. The Executive Director noted staff expects to issue a comprehensive update the end of next week or the following week. It will include updated drafts and a disposition of comments received on all RCC recommendations to date except for Chapter 6. It will

also include an updated spreadsheet listing the ordinal ranking of penalties for each RCC offense and jury demandability recommendations. Advisory Group members will have about 8 weeks for written comments. In mid-March, staff expects to issue an update to Chapter 6, including penalty enhancements and absolute numbers for each penalty class.

- b. The Advisory Group's next meeting will be held on March 4, 2020 and the agenda will concern the updated recommendations.

II. The Advisory Group discussed the written comments on the First Draft of Report #49, Parental Kidnapping.

- a. The Executive Director asked if USAO agreed with the OAG analysis and recommendation that parental kidnapping be prosecuted by USAO, citing *In re Crawley*, 978 A.2d 608 (D.C. 2009); *In re Hall*, 31 A.3d 453, 456 (D.C. 2011); and *In re Prosecution of Nicco Settles*, 218 A.3d 235 (D.C. 2019).
 - i. The USAO representative said she was not able to identify a case in which the office had charged only parental kidnapping. It did identify a case in which it charged parental kidnapping and simple assault. In that case consent from OAG was not sought under D.C. Code § 23-101.
- b. USAO noted that, as a global issue, it would be helpful to clarify in the statutory language which party has the burden of proof for affirmative defenses and exclusions from liability.
 - i. The Executive Director said that the Commission plans to address the burden of proof and burden of production for all exclusions, defenses, and affirmative defenses in the RCC's General Part.

III. The Advisory Group did not have any comments at this time on the First Drafts of Reports #42 – 49.

IV. Adjournment.

- a. The meeting was adjourned at 10:25 am.