



D.C. Criminal Code Reform Commission
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MINUTES OF PUBLIC MEETING
WEDNESDAY, SEPTEMBER 2, 2020, at 10:00 AM

On Wednesday, September 2, 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 telephonically at (650) 479-3208 (access code: 160 515 4634). 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:

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| Richard Schmechel (Executive Director) | Rachel Redfern (Senior Attorney Advisor) |
| Jinwoo Park (Senior Attorney Advisor) | Patrice Sulton (Senior Attorney Advisor) |

Advisory Group Members and Guests in Attendance:

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| Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia) | Dave Rosenthal (Designee of the Attorney General of the District of Columbia) |
| Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia) | Seema Gajwani (Visiting Attendee of the D.C. Attorney General’s Office) |
| Elana Suttenger (Visiting Attendee of the Office of the United States Attorney for the District Columbia) | Nishant Keerikatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice) |
| Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety) | Don Braman (Council appointee) |

I. Welcome and Announcements.

- a. The Executive Director noted that Attorney Advisor Gabrielle Green recently resigned and will be missed. To fill the vacancy CCRC is conducting a search for a social scientist to review literature and analyze data. Advisory Group members are asked to please share the vacancy announcement with their networks.

- b. The next meeting will be held on Wednesday October 7, 2020 at 10:00 a.m. via WebEx.
- c. In September, CCRC will issue a small batch of new reports concerning new offenses and several general defenses, including self-defense. Advisory Group members will have about 4 – 6 weeks to provide written comments if they wish.
- d. CCRC is also continuing to work on a comprehensive update to all recommendations that will address the comments recently received. The agency hopes to issue that update around the new year.
- e. The agency asks that Advisory Group members review all recommendations and schedule a meeting with CCRC staff to discuss their top priorities and remaining concerns. The agency will send final recommendations to the Council and Mayor early next year, so the coming months are the final chance to make changes before the recommendations are released.

II. The Advisory Group discussed Advisory Group Memo #38 – Statistics on District Adult Criminal Charges and Convictions.

- a. The Executive Director noted the main differences between Memo #38 and the prior version in Memo #28, including the inclusion of data from 2019; new yearly groupings of data, including a 10-year span for 2010 to 2019; and new analysis of consecutive and concurrent sentencing.
- b. The Executive Director noted that it is limited what we can infer and the dataset includes a number of assumptions detailed in the data cleaning methodology in the memo. For example, when the field designating a consecutive or concurrent sentence is left blank, deliberately or erroneously, the court system records a consecutive sentence, as if the court did not specify.
- c. The Executive Director noted that the current first-in-time data set appears to include a number of illegal sentences. In the coming months the agency hopes to gain two new datasets that will do better at screening out such sentences. The difference will be the time of the data, at the 72-hour mark (after quality control reviews the judgment and commitment orders), and last-in-time (after appeals, changes in disposition, and sealing) sentencing disposition in the record.
- d. If Advisory Group members have questions beyond CCRC’s expertise, we have contracted with a data scientist who may be able to answer, though there may be some time lag.
- e. The USAO Visiting Attendee asked whether attempts are entered as completed offenses.
 - i. The Executive Director stated that the in the hidden columns specify attempt or non-attempt, however, the aggregate columns do not distinguish between attempts and non-attempts.
- f. USAO asked whether a case involving multiple counts appears under each charge or only the lead charge.

- i. The Executive Director stated that the agency’s analysis is organized by charge and not by case. Other data analyses, such as Bureau of Justice Statistics (BJS) analysis of state time-served that was previously distributed, typically include only the lead charge.
- g. OAG asked why there is a designation for “at least 75%.”
 - i. The Executive Director noted that there are designations for other ranges such as > 50%. He stated that this level of approximation is required for some entries because the data use agreement with the court prevents the agency from reporting out a certain level of detail, even though the underlying information is publicly available. For example, the cell-suppression provision in the agreement does not allow the agency to state or otherwise reveal the precise number of charges when there is a small total number of charges under 20.
- h. The Executive Director noted a few tips for reading the data:
 - i. Some offenses have multiple court codes and, therefore, multiple rows, so it good to look at nearby citations. This is sometimes helpful because it shows which version of the offense is there and sometimes unhelpful because it makes it more difficult to sort and understand the data.
 - ii. When there are few charges or few convictions, please be wary of the highest and lowest sentences. A single error such as entering months as days may create a very misleading impression for the sentence distribution at the top and bottom of the range.

III. Adjournment.

- a. There being no further questions from Advisory Group members, the meeting was adjourned at 10:45 a.m.