



District of Columbia Sentencing and Criminal Code Revision Commission

441 4th St, NW, Suite 430 South, Washington, DC 20001
Telephone (202) 727-8822 Fax (202) 727-7929

MINUTES OF FULL COMMISSION MEETING

October 27, 2015

One Judiciary Square, Suite 430S, Washington, DC 20001

Voting Members in Attendance:

Frederick Weisberg
Paul Butler
Laura Hankins
Renata Cooper

Harold Cushenberry
Ron Gainer
Marvin Turner
Cedric Hendricks

Donald Braman
Julie Samuels

Non-Voting Members in Attendance:

Michael Anzallo

Staff in Attendance:

Barbara Tombs-Souvey
Linden Fry
Bryson Nitta

Michael Serota
Jinwoo Park
Mia Hebb

LaToya Wesley
Richard Schmechel
Rachel Redfern

Guest:

Tamar Meekes

- I. The meeting was called to order by Chairman Weisberg at 5:10 p.m.
- II. The minutes from September 15, 2015, meeting were reviewed and approved.
- III. Summary of Criminal History Enhancement Conference - Informational Item, Chairman Weisberg.

Criminal History Enhancement Conference: Chairman Weisberg gave a brief overview of the Criminal History Enhancement Conference that he and Barbara Tombs-Souvey attended at the University of Minnesota Law School. Chairman Weisberg stated that 18 states, including D.C. participated in the research project, which focused on the use and purpose of Criminal History Enhancements within various Guideline Systems. The purpose of the research is to prompt Sentencing Commissions to think about why Criminal History is used, and how it relates to sentencing under the guidelines and/or sentencing policy decisions. Chairman Weisberg challenged the Commission to read the Criminal Enhancement History report, which will be provided to each member in an electronic format, and provide feedback as to whether the Commission could or should consider using criminal history differently within the District's current sentencing guidelines.

- IV. Update on the Sentencing Guidelines Evaluation Project – Informational Item, LaToya Wesley and Barbara Tombs-Souvey.

Sentencing Guidelines Evaluation Project: Barbara Tombs-Souvey informed the Commission that the five year Sentencing Guideline Evaluation Study previous delivery date of October 2016 has been extended to January 2017 to avoid a conflict with Criminal Code Revision Project which has a September 2016 deadline. Ms. Souvey stated that the entire five year data set has been downloaded, cleaned and the initial data analysis has begun.

Ms. Souvey then turned the discussion over to LaToya Wesley to share the preliminary findings related to felony sentences imposed between 2010 and 2014. Ms. Wesley stated that extreme statistical outliers were identified and reviewed. Those which were the results of court data entry errors were corrected, however, those determined to be true statistical outliers were removed from the study to avoid skewing the study findings. Ms. Wesley discussed the preliminary data findings and charts associated for each as set forth in the memorandum distributed.

Ms. Wesley asked the Commission if there were any questions or suggestions that may be included in doing the analysis. Several suggestions and comments were raised regarding the preliminary findings. Ms. Souvey reiterated that the research committee will continue to provide updates and additional findings throughout the course of the multi-year study.

- V. Discussion Regarding Format and Content of Criminal Code Revision Recommendations Forwarded to the Council – Information Item, Chairman Weisberg.

Criminal Code Recommendations to the Council: Chairman Weisberg gave a brief overview of the Criminal Code Revision Project (CCRP). Chairman Weisberg expressed concerns related to the project timeline and how the Commission should forward the CCRP deliverables to the Council in order to comply with deadline of September 30, 2016. Chairman Weisberg opened the floor up for feedback from the Commission members.

Commission members raised several concerns and questions regarding the project plan and the deliverables to the Council. Ms. Souvey suggested that the report should mirror the project plan submitted to the Council as closely as possible. After discussion, the Commission recommendation was that the CCRP staff draft a report summarizing the Commission's approach to the various code revision recommendations. The report should state that proposed approach for revisions are in draft form at this time and may change prior to the Commission's final submission. This approach will demonstrate that the work of the CCRP Committee has been discussed at the Commission level.

Meeting Adjourned: 6:20 p.m.

NEXT MEETING:

November 17, 2015

One Judiciary Square (441 4th St., NW), Room 430S.



District of Columbia
Sentencing and Criminal
Code Revision Commission

441 Fourth Street, NW, Suite 430 South, Washington, D.C. 20001
(202) 727-8822 – Fax (202) 727-7929

*Hon. Frederick H. Weisberg,
Chairperson*

*Barbara S. Tombs-Souvey
Executive Director*

*Donald Braman, Esq.
Renata Cooper, Esq.
Hon. Harold L. Cushenberry
Ronald Gainer, Esq.
Laura E. Hankins, Esq.
Cedric Hendricks, Esq.
William "Billy" Martin, Esq.
Hon. Robert E. Morin.
Dave Rosenthal, Esq.
Julie E. Samuels
Marvin Turner
Molly Gill, Esq.
Paul Butler, Esq.
Earl J. Silbert, Esq.*

*Non-voting members:
Maria Amato, Esq.
Michael Anzallo
Judi Simon-Garrett, Esq.
Hon. Kenyan McDuffie
Stephen J. Husk*

**D.C. Sentencing and Criminal Code Revision Commission Meeting
November 17, 2015
5:00 to 6:30 PM
Room 430S
441 Fourth Street, N.W. (One Judiciary Square)
Washington, DC 20001**

Agenda

1. Review and Approval of the Meeting Minutes from October 27, 2015 - Action Item, Judge Weisberg.
2. Discussion and Approval of the Criminal Code Revision Project's Approach to Drafting General Provisions - Action Item, Richard Schmechel.
3. Next Meeting – December 19, 2015.
4. Adjourn



District of Columbia Sentencing and Criminal Code Revision Commission

441 4th St, NW, Suite 430 South, Washington, DC 20001
Telephone (202) 727-8822 Fax (202) 727-7929

MINUTES OF FULL COMMISSION MEETING

November 17, 2015

One Judiciary Square, Suite 430S, Washington, DC 20001

Voting Members in Attendance:

Frederick Weisberg
Paul Butler
Laura Hankins
Renata Cooper

Donald Braman
Julie Samuels (via phone)
Molly Gill
Cedric Hendricks

Robert Morin
Dave Rosenthal

Non-Voting Members in Attendance:

Stephen Husk
Judi Garrett

Chanell Autrey

Staff in Attendance:

Barbara Tombs-Souvey
Richard Schmechel
Bryson Nitta

Michael Serota
Jinwoo Park
Mia Hebb

LaToya Wesley

Guest:

Briane Knight
Katherine Lampron

- I. The meeting was called to order by Chairman Weisberg at 5:10 p.m.
- II. The minutes from October 27, 2015, meeting were amended and approved. A question was raised as to whether the minutes should reflect that the Commission should notify the Council of the unlikelihood the Criminal Code Revision project will be completed by the statutory deadline. Chairman Weisberg indicated that the agency's Performance Hearing would be the appropriate place to address that issue with the Council.
- III. Discussion and Approval of the Criminal Code Revision Project's Approach to Drafting General Provisions – Action Item, Richard Schmechel.

Discussion and Approval of the Criminal Code Project's Approach to Drafting General Provisions: Richard Schmechel stated that the General Provisions were preliminarily approved by the CCR Committee and that an agency review was conducted approximately a year ago. Mr. Schmechel provided an overview of CCR Committee's draft General Provisions as set forth in the memorandum. Mr. Schmechel then discussed several key points of the General Provisions:

- The Definition of General Provisions
- Three Functions of the General Provisions
- Why General Provisions are Necessary
- Explanation of Element Analysis
 - (a) Breaking an Offense into circumstance and result elements
 - (b) Specifying the Corresponding Culpable Mental States
- The definition of the Four Culpable Mental States
 1. Purposely;
 2. Knowingly (or Intentionally);
 3. Recklessly; and
 4. Negligently

Richard Schmechel provided several hypotheticals where both element analysis and a corresponding mental state were applied to an offense. He then opened the floor to address any concerns or questions regarding the draft general provisions. Several questions and recommendations were raised by Commission members.

Commission Action #1: The Commission voted to approve the Committee's continued approach to drafting general provisions to include the element analysis approach. The Criminal Code Revision staff will redraft the prior transmittal memorandum and forward this information to the Council and Mayor by 10-0 vote.

Meeting Adjourned: 6:45 p.m.

NEXT MEETING:
 December 15, 2015
 One Judiciary Square (441 4th St., NW), Room 430S.