



District of Columbia Sentencing and Criminal Code Revision Commission

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Telephone (202) 727-8822 Fax (202) 727-7929

MINUTES OF FULL COMMISSION MEETING

January 20, 2015
One Judiciary Square, Suite 430S
Washington, DC 20001

Members in Attendance:

Frederick Weisberg
Paul Butler
Julie Samuels
Renata Cooper
Dave Rosenthal

Michael Anzallo
Robert E. Morin
Laura Hankins
Molly Gill
Thomas Kane

Cedric Hendricks

Staff in Attendance:

Barbara Tombs-Souvey
Linden Fry
Richard Schmechel
Mia Hebb

Michael Serota
Jinwoo Park
Thurman Sanders
Rachel Redfern

Bryson Nitta

- I. The meeting was called to order by Chairman Weisberg at 5:00 p.m.
- II. The minutes from the November 18, 2014, meeting were reviewed and approved.
- III. Update and Discussion of Criminal Code Revision Project- Action Item, Richard Schmechel and Judge Weisberg.

Update and Discussion of Criminal Code Revision Project: Chairman Weisberg gave a brief historical overview of the Criminal Code Revision Project (the Project). Project Director Richard Schmechel discussed the current status of the Project and three proposed options that could allow the Project to move forward. Mr. Schmechel also gave an update of the Criminal Code Project's accomplishments to date and discussed the agency review process. The agency review process allowed USAO, OAG, and PDS to review and give feedback on a preliminary draft of some proposed modifications to the code. The Commission received feedback from agency review in December 2014. Each agency's response was set forth in a memorandum sent to Commission members. Mr. Schmechel informed the Commission that the agencies and Committee lacked consensus on how to proceed with the Project, and that Commission action is required. Mr. Schmechel gave an overview of the following three proposed options that could enable the Project to move forward at this time:

Option #1: Determine the Appropriate Scope of Code Revision by a Majority Vote

The Commission could decide what it believes to be the proper approach to code revision by majority vote and direct the Committee to implement that approach. To

date, the Committee has chosen to work on a consensus basis to help ensure the long term viability of recommendations for legislative change. Proceeding without consensus may jeopardize agency participation and may impact the Council's final action on Commission recommendations.

Option # 2: Prepare a Bill to Enact Title 22 of the D.C. Code

The Commission could focus the work of the Committee and staff on preparation of a bill that would enact Title 22 as positive law. This bill would be submitted to the Commission and, upon its approval, to the Council. Such a bill would address one of the Project's mandates from the Council. Preparation of such a bill is expected to take limited Committee or Commission review time given the highly technical, staff-intensive nature of an enactment bill. It is anticipated that the bill could be completed by the statutory deadline of September 30, 2016.

Option # 3: Enactment Plus

The Commission could direct the Committee and staff to prepare a bill that not only would enact Title 22, as per Option #2, but would also address other Project mandates from the Council regarding organization of criminal statutes in a logical order and identification of criminal statutes that have been held to be unconstitutional. In addition, outdated provisions would be addressed in the bill where there is unanimous agreement, such as updating references to the former "Corporation Counsel" and repealing clearly archaic offenses. Preparation of such an "enactment-plus" bill would require additional time, but completion by the statutory deadline of September 30, 2016 appears feasible.

Agency Representatives from USAO, OAG and PDS each presented their agency's concerns, and identified the option that might enable their agencies to support moving forward with the Project. Commission members raised several questions and concerns regarding the three options presented; the focus of the Project; the role of the three institutional agencies in the success of the project; and proposed modification of the Project's Management Plan.

After considerable discussion, Chairman Weisberg suggested that the Commission continue the conversation and approval action at the next scheduled meeting.

The meeting scheduled for Tuesday, February 17, 2015 was rescheduled to February 10, 2015 to accommodate Commission members' schedules.

Meeting Adjourned: 6:45 pm.

NEXT MEETING:

Tuesday, February 10, 2015,
One Judiciary Square (441 4th St., NW), Room 430S.