



# District of Columbia Sentencing and Criminal Code Revision Commission

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## **FULL COMMISSION MEETING MINUTES**

Tuesday, October 19, 2010  
Judiciary Square, Room 1117  
Washington, DC

### Attendance:

Frederick Weisberg  
Ramsey Johnson  
Thomas Kane  
Pat Riley  
Jennifer Seltzer-Stitt  
Stephen Husk  
Brian Forst

Dave Rosenthal  
Cedric Hendricks  
Nancy Ware  
Adele Harrell  
Megan Murphy  
Harold Cushenberry

Michael Anzallo  
Megan Collins  
Barbara Tombs  
Courtnei Burleson  
Chan Chanhatisilpa  
Mia Hebb  
Ariel Lacey

- I. Call to order at 5:00 p.m.
- II. Judge Weisberg announced that Brian Forst has chosen not to renew his appointment which will expire on December 31, 2010. Mr. Forst added that he will assist in the search for a replacement. Judge Weisberg read the statutory description of Mr. Forst's role on the Commission and suggested that other Commission members consider nominees for a potential replacement. Judge Weisberg also thanked Mr. Forst for his years of valuable service on the Commission throughout his tenure.
- III. Minutes from the October 19, 2010 meeting were approved.
- IV. Public Outreach Committee Update – by Courtnei Burleson and Jennifer Seltzer-Stitt
  - a. The first phase of the website redesign has been completed. This corrected incomplete or outdated information and added the Commission's most recent publications and information on staff. The next phase of the redesign will provide access to complete meeting information, including minutes and agendas. In addition, the current section on the Commission's history will be revised to more effectively highlight the Commission's development and accomplishments to date. Input and review by long-time Commission members would be welcomed to assist with this task. Judge Weisberg suggested that the Commission be notified when the redesign has been completed. Courtnei Burleson suggested that Commission members notify the

Public Outreach Committee of any suggestions for additional changes to the webpage.

- b. The Committee is completing a comprehensive list of who makes up the Commission's target audience for outreach. This will help the Committee focus outreach efforts appropriately. Commission members discussed several sources for reaching the public at large including the Advisory Neighborhood Commissions (ANCs), Police Service Areas (PSAs), MPD's Citizen Advisory Council and civic associations.
- c. The Committee is also in the beginning stages of developing a survey to assess the public's needs for training and resources. Two surveys are being developed: one for practitioners who work with the guidelines and another for the general public.

#### V. Criminal Code Revision Committee

- a. Fine Proportionality Act and Transmittal Letter to the Council

The latest draft of the Fine Proportionality Act and Transmittal Letter was distributed. Dave Rosenthal made two suggested revisions. First, modify the appendices so that there are only two—Appendix A would include three subheadings made up of the proposed Act, the accompanying exemptions, and the accompanying conforming amendments while Appendix B would include the federal provision. Second, one of the bullet points could be modified to more clearly reflect the typical fine provision for both USAO cases and OAG cases, which are slightly different.

Pat Riley made three suggestions. First, for ease of modifying the conforming amendments, instead of striking language in the statutes, change the references to "three times the value" to reflect the proposed statute's provision of assessing twice the value. Second, she noticed that not all felonies with the above language were included with the conforming amendments and suggests doing a final examination of the Code to ensure that this section is comprehensive. Third, the language in the proposed fine statute at (b)(1) should mirror that of the federal provision since the proposed statute is modeled on the federal version.

Referencing the transmittal letter, Judge Weisberg asked Dave Rosenthal to confirm that there are no mandatory fines. Mr. Rosenthal could not recall any such fines but stated he would check and report back on this. Judge Weisberg also notified the Commission that as Superior Court judges, he, Judge Johnson and Judge Cushenberry would not be participating in any vote regarding this proposed legislation so as not to suggest any conflict of interest on the issue.

b. Vote by the Commission

The Commission voted on submitting the proposed Fine Proportionality Act and Transmittal Letter to the Council with consideration of the stated changes. These changes would not alter the substance of the proposed fine provision or transmittal letter.

For: 8 – Don Braman (by proxy), Brian Forst, Laura Hankins (by proxy), Adele Harrell, Cedric Hendricks, Pat Riley, Dave Rosenthal, Jennifer Seltzer-Stitt

Against: 0

Abstained: 3 – Judge Harold Cushenberry, Judge Ramsey Johnson and Judge Frederick Weisberg

VI. Proposed Changes for the 2011 Guidelines Manual – Courtni Burleson

Courtni Burleson distributed a memo summarizing several proposed changes for the 2011 Guidelines Manual for the Commission’s consideration. These issues represent incoming guidelines inquiries and other issues that arise for the staff. In sum, these proposed revisions included:

- **A clarification to the rules set forth in § 2.2.9**
- **Modifications to the definition of Crime of Violence in § 7.4:** Judge Weisberg provided background on the development of this guidelines definition and the significance of the statutory definition of crime of violence. Modifications to the current definition require further discussion.
- **A clarification to the definition of Event in § 7.10:** The Commission discussed the historical development of this definition. Modifications to the current definition would require further discussion.
- **A minor correction to Appendix A**
- **A clarification on Repeat Offender Provisions in Appendix H:** Pat Riley will examine the applicable provision to assess the need for any changes in the language of Appendix H.
- **Various revisions to Appendix C/C-I including a minor correction to a crime of violence, clarification on the “while armed” entries, and ten felonies that are not currently in Appendix C/C-I:** Judge Weisberg provided an historical and legal background on the “while armed” provision in § 22-4502 of the Code. “Further discussion should explore potential options for addressing references to this provision in Appendix C. Judge Weisberg suggested that an additional explanatory footnote in

Appendix C may be an appropriate solution.” The Ranking Committee should address the list of felonies that are currently not included in Appendix C.

The Commission reiterated its previous agreement that the manual should be updated on the first of January each year.

VII. Issues Paper Number 2

Barbara Tombs announced that the issues paper titled “A Comparison of Felony Sentences for Drug Offenses in the District of Columbia in 1999 and 2009” will be ready for distribution by the next meeting date.

Adjourn: 6:15 pm

NEXT MEETING:

Tuesday, November 16, 2010, One Judiciary Square (441 4<sup>th</sup> St., NW), 11<sup>th</sup> Floor.