



# District of Columbia Sentencing and Criminal Code Revision Commission

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## FULL COMMISSION MEETING MINUTES

Tuesday, September 21, 2010  
Judiciary Square, Room 1112  
Washington, DC

### Attendance:

Frederick Weisberg	Laura Hankins	Megan Collins
Ramsey Johnson	Cedric Hendricks	Barbara Tombs
Thomas Kane	Ronald Gainer	Courtnei Burleson
Pat Riley	Nancy Ware	Ken Cowgill
Jennifer Seltzer-Stitt	Adele Harrell	Chan Chanhathasilpa
Stephen Husk	Megan Murphy	Mia Hebb
Don Braman	Harold Cushenberry	Ariel Lacey
Michael Anzallo		

- I. Call to order at 5:00 p.m.
- II. Introduction of Megan Collins, Data Management Specialist and Ariel Lacey, Data Intern.
- III. Minutes from the June 22, 2010 meeting were approved with the correction that the reference to "FY" in section IV refers to FY2011.
- IV. Proposed ranking of new offenses

- a. Introducing/Possession of Contraband by an Inmate (Class A Materials):

Although the Commission had voted on this offense at its previous meeting, there was not the requisite number of votes to ratify this action. Judge Weisberg, Laura Hankins and Pat Riley provided an overview of prior discussions on ranking this offense. The Commission ultimately voted to leave this offense in Master Group 8.

**The vote was eight in favor of Master Group 8 (Braman, Cushenberry, Hankins, Harrell, Seltzer-Stitt, Gainer, Weisberg and Hendricks) and three for Group 7 (Riley, Johnson, Rosenthal).**

Dave Rosenthal recommended that the Commission develop a procedure for revisiting the placement of offenses that are currently ranked.

b. Possession of Liquid PCP:

Judge Weisberg provided background information on the new offense of Possession of Liquid PCP. Judge Johnson and Pat Riley provided additional information on past trends in drug sentencing in the District. Laura Hankins offered that the research on PCP included some debate on the assessment of dangerousness associated with this drug. Laura Hankins also suggested that perhaps there should be a fourth group added to the drug grid or an explanation in the manual for judges to consider the differences in statutory maxima amongst the offenses in the drug groups. It was acknowledged that the vote on where to place this new offense of Possession of Liquid PCP would not preclude the Commission from exploring these options in the future.

**The vote was eleven in favor of Drug Group 3 (Braman, Cushenberry, Gainer, Hankins, Johnson, Riley, Rosenthal, Seltzer-Stitt, Weisberg, Hendricks and Harrell.**

V. The Public Outreach Subcommittee Report

a. Proposed Outreach Strategy

Courtnei Burleson and Jennifer Seltzer-Stitt outlined a proposed strategy for providing outreach to the public. The work of the committee would focus on education, research, and information gathering. A handout was distributed to the Commission summarizing these strategies. Potential projects over the next several months would include: (1) clearly identifying the target audience for outreach; (2) a redesign of the website to make it more user-friendly; (3) a needs assessment and expansion of appropriate resources available to the public; and (4) organizing forums that would allow for the public to give input on the Commission's projects and agenda as well as interact with Commission members.

Pat Riley and Dave Rosenthal commented on the possibilities and limitations of adding specific features to the website. There was discussion that engaging the public serves a purpose but communicating appropriate responses to the public was also important. The committee will continue to report its progress to the Commission and modify the strategy plan as the work of the committee develops.

b. There was an agreement to change the titles of both this subcommittee and the Criminal Code Revision Subcommittee to simply "Committee."

VI. Criminal Code Revision Subcommittee Report

Ken Cowgill summarized the draft transmittal letter to the Council regarding fine proportionality that was distributed to the Commission. The committee proposed the creation of one statute that would regulate most criminal fines in the District. This is based on a federal statute that serves the same purpose. Ken Cowgill reported that the transmittal letter was in its final stages of revision and an agreement on the draft by the

committee was very close. The Commission agreed that upon completion, an email vote on submitting the proposed fine proportionality statute was appropriate.

Ken Cowgill also provided a brief update on the committee's analysis of adopting the MPC provisions to D.C. law.

#### VII. Additional Agenda Item

Laura Hankins introduced a recent sentencing issue that initiated discussion on whether a procedure should be developed for dealing with acts that may influence the Commission's data. Judge Weisberg stated that this issue concerned the importance of collecting information from judges about departures for reporting compliance. It was noted that having a procedure that is implemented quickly could solve some complications in gathering departure information.

#### VIII. Sentencing Guidelines Compliance Report

- a. Barbara Tombs announced that the issues paper on Unauthorized Use of a Motor Vehicle (UUV) is finished and will be distributed.
- b. The Sentencing Guidelines Compliance Report will be ready for distribution to the Council and Mayor's Office by the end of September. There was a discussion of seven atypical cases that involved departures and whether they should be included in the reported compliance rate. There was an agreement to survey the judges who presided over these cases about their reasons for departure.
- c. There was a discussion of improving and expediting the process by which judges are queried about departure reasons.

Adjourn: 6:30 pm

#### NEXT MEETING:

Tuesday, October 19, 2010, One Judiciary Square (441 4<sup>th</sup> St., NW), 11<sup>th</sup> Floor.