



**Testimony of
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**On Criminal Code Reform
Commission**

Before the Council of the District of
Columbia, Committee on the
Judiciary & Public Safety

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I'm Nazgol Ghandnoosh, Co-Director of Research at The Sentencing Project and a DC resident of Ward 2. I am also a newly appointed member of the DC Sentencing Commission.

The Criminal Code Reform Commission (“the Commission,” CCRC) exemplifies how to have an informed, well-researched, and evidence-based lawmaking process. I feel proud as a DC resident to have witnessed the impact of their work on our legislative process. My correspondence with them about just one aspect of DC law showed me the incredible sophistication and expertise that they have amassed over years of work. I hope that the Council recognizes that the Commission is a prized gem in our government that should be safeguarded locally and emulated nationally.

DC’s government, like that of every jurisdiction, has problems. But certain aspects of our government, including parts of our criminal legal system, serve as models for the rest of the country. This includes abolishing cash bail in the 1990s. More recently, it includes giving a second look to those sentenced to long prison terms when they were young.¹

I have previously testified to this Council about how the key product of the Commission’s work, the Revised Criminal Code Act (RCCA), would have led DC to be held in even higher regard, by helping to realign DC’s criminal code with the best evidence on ensuring public safety.² Today, I want to focus on two exemplary strengths of this Commission: its success in amassing a vast body of knowledge about criminal codes locally and across the country, and its deliberative process of bringing together a wide range of stakeholders to reach a consensus about recommended reforms.

A GLIMPSE INTO THE COMMISSION’S VAST EXPERTISE

In 2021, I had my first glimpse into the Commission’s vast expertise when I contacted Jinwoo Park, who is currently the executive director of the Commission, and spoke with him and his Commission colleagues about the “felony murder” rule, which holds people liable for murder if they participated in a felony that resulted in someone’s death. At the time, I had many questions about aspects of this law, particularly how some reforms seemed too narrow to address its broad injustices.

¹ Ghandnoosh, N. (2021). *A second look at injustice*. The Sentencing Project.

² Ghandnoosh, N. (2021). *Testimony in support of Washington, DC’s Revised Criminal Code Act of 2021*. Council of the District of Columbia, Committee on the Judiciary & Public Safety.

Mr. Park and his colleagues patiently answered my questions about how this law works on paper and in practice in DC, explained their proposed revisions to the law, and we exchanged observations about variations of the law and reforms across states. They were familiar with all the existing research that I knew of on this topic, and introduced me to some others.

The report that I later co-authored at The Sentencing Project has become a national resource on this issue.³ I can say confidently that this report would not have been possible without the guidance that I received from the Commission. To this day, I am in awe of how they have achieved this level of expertise and insight on a wide range of offenses. I imagine that the Council benefited from similar back-and-forth with the Commission, which better informed their legislative drafting.

THE SPIRIT OF CODE REFORM

As criminologists and legal scholars have noted, key principles of criminal law contribute to the law's moral authority, which in turn promote public safety. That's because when criminal laws are seen as legitimate, people are more willing to allow the criminal legal system to address the harms that they've experienced, rather than give up hope in our public institutions and potentially take justice into their own hands.

But currently, DC's criminal code violates certain key principles of criminal law, which the Commission sought to address through the RCCA. First, there is the principle of proportionality, meaning that more serious crimes are punished more severely. The Commission has identified vast inconsistency in the criminal code and the RCCA's proposed gradations would have addressed this problem.

Another key tenet of our criminal legal system is equal justice under law. This is something that DC residents see engraved on the front entrance of the U.S. Supreme Court, but we also know it remains a distant aspiration in a city that is 46% Black but where Black residents account for 93% of the prison population.⁴

As the National Academies of Sciences has explained, we cannot eliminate the racial inequity in criminal justice, which stems in part from differences in serious crime rates, without

³ Ghandnoosh, N., Stammen, E., & Budaci, C. (2022). *Felony murder: An onramp for extreme sentencing*. The Sentencing Project.

⁴ Calma, E. & Sayin, Y. (2023). *A look at who is incarcerated in D.C.'s criminal justice system*. DC Policy Center.

making “durable investments in disadvantaged urban neighborhoods that match the persistent and longstanding nature of institutional disinvestment that such neighborhoods have endured over many years.”⁵

Reforms in the RCCA would have helped to reduce disparities produced within the criminal justice system. Eliminating nearly all mandatory minimums and scaling back extreme sentences are two ways that the RCCA would have reduced racial disparities in sentencing.

THE COMMISSION INFORMS DEBATES

Legal experts and criminologists help to both broaden and deepen our understanding of criminal law and its consequences. But the lawmaking process for criminal laws in DC is both democratic—responsive to public debate on this highly charged issue—and undemocratic, because our bills live or die at the whim of people in the federal government who we did not elect. In both the public debate and in the Congressional one, CCRC has been a beacon of truth.

When a *Washington Post* editorial included a misleading characterization of how penalties change under the RCCA, Mr. Park responded promptly with a letter to the editor to set the record straight.⁶

As members of Congress debated whether to respect the District’s autonomy, or to overturn a law unanimously passed by a majority-Black legislature, my colleagues at The Sentencing Project relied heavily on informative documents produced by the CCRC that countered misinformation.

Unfortunately, facts do not always carry the day and so we’re back to square one, with some bruises, and still the need to modernize DC’s criminal code.

UNFINISHED COMMISSION BUSINESS

⁵ Muhammad, K.G., Western, B., Negussie, Y., & Backes, E. (2022). *Reducing racial inequality in crime and justice: science, practice, and policy*. National Academies of Sciences, Engineering, and Medicine. P. 6-5

⁶ Park, J. C. (2023, January 17). D.C.'s criminal code retains significant penalties for violent crime [Letter to the editor]. *Washington Post*.
<https://www.washingtonpost.com/opinions/2023/01/17/dc-criminal-code-retains-significant-penalties-violent-crime/>

In addition to serving as an indispensable repository of information about DC’s criminal code and how it compares to others around the country, the CCRC also plays a key role in bringing together stakeholders to arrive at unified recommendations. The voting members of the Commission’s advisory group, which included the Office of the Attorney General and the U.S. Attorney’s Office for DC, unanimously approved the recommended bill which then became the Revised Criminal Code Act. This was a landmark achievement.

The Commission also helped to inform the Council in the process of drafting and revising the RCCA. Even in vetoing the bill, the mayor stated that there was consensus on 95% of the bill’s provisions and that the Council should proceed with passing a bill with those provisions.⁷ The mayor called those provisions a “significant and much needed update to our criminal code.”⁸

We must preserve, rather than abolish, the CCRC. We must double our efforts to overhaul the code via the RCCA and via further code reforms. As the Council and the mayor’s office consider revisions to the RCCA, the Commission’s expertise and facilitation will be particularly crucial in ensuring that any changes are rooted in criminological evidence and are legally sound.

While we wait to regroup and achieve that goal, the Commission will also play an important role in other criminal legal reforms, including reforms to criminal procedure provisions in Titles 16, 23, and 24 and reforms to traffic and other offenses not yet recommended for revision in Titles 22 and 50.

And once we have revised our criminal code, the Commission will be crucial in ensuring that our new laws are properly implemented, and help to guide debates about additional revisions. CCRC has been, and will be, go-to experts for the DC Sentencing Commission and the Red Book Committee. They will help to develop training materials for practitioners, judges, and the Metropolitan Police Department.

CONCLUSION

⁷ Mayor’s Veto Letter for B24-0416, “Revised Criminal Code Act of 2021.”
https://lims.dccouncil.gov/downloads/LIMS/47954/Other/B24-0416-Bill_24-416_veto_letter_from_the_Mayor.pdf

⁸ See note 7.

Would we abolish the District Department of Transportation (DDOT) once we achieve the goals of Vision Zero? Of course not—we would still need to make more progress and continue the work of creating the transportation infrastructure that we envision for our city.

Modernizing DC’s criminal code is a critical step in advancing safety, justice, and equity. The Criminal Code Reform Commission is an indispensable agency in achieving these critical and laudable goals.