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**Statement of the Council for Court Excellence
Before the Committee on the Judiciary & Public Safety
of the Council of the District of Columbia**

Hearing on B24-416, the Revised Criminal Code Act of 2021

Thursday, November 4, 2021

Good afternoon, Chairman Allen and members of the Committee. My name Casey Anderson and I am the Communications Manager for the Council for Court Excellence (CCE). CCE is a nonpartisan, nonprofit organization with the mission to enhance justice in the District of Columbia. For nearly 40 years, CCE has worked to improve the administration of justice in the courts and related agencies in D.C. through research and policy analysis, facilitating collaboration and convening diverse stakeholders, and creating educational resources for the public. Please note that in accordance with our policy, no judicial member of CCE participated in the formulation or approval of this testimony. This testimony does not reflect the specific views of, or endorsement by, any judicial member of CCE.

For over a decade, CCE has advocated for piecemeal criminal code reform and we are eager to support the comprehensive revisions proposed by the Criminal Code Reform Commission. Adopting these proposals will reduce the criminal code's complexity and make it fairer. D.C.'s criminal code is uniquely outdated compared to other jurisdictions, and retains provisions that have ill-defined language, disproportionate punishments, and perpetuate racial disparities.¹

¹ The Committee on the Judiciary and Public Safety, *Notice of Public Hearing, B24-0416, The "Revised Criminal Code Act OF 2021"*,

https://lms.dccouncil.us/downloads/LIMS/47954/HearingNotice/B24-0416-Hearing_Note1.pdf

The United States' criminal legal system is rooted in racism, and the District's criminal legal system is no exception. This means that D.C.'s criminal code has real and racially disproportionate impacts on D.C. residents, particularly D.C.'s Black residents. Today, 95% of all people serving sentences for D.C. Code offenses in the federal Bureau of Prisons are Black and Black people are overrepresented at every intercept of D.C.'s criminal legal system.² The current criminal code's harsh sentencing and vague language disrupts lives and removes people from their community. This is a systemic issue that can't be fixed by ad hoc changes. Meaningful reform is not possible unless it is comprehensive and explicitly seeks to reduce the racialized impact of our criminal legal system.

In 2010, CCE published "Revising the District of Columbia Disorderly Conduct Statutes", which concluded that the court's definition of "disorderly conduct" was vague, and led to the abuse of the "contempt of cop" charge being used by police in situations that lacked any real threat to public safety.³ In fact, data analyzed in the report found that D.C. had an exceptionally high rate of disorderly conduct arrests compared to other cities. In order to draft this report, CCE created a subcommittee chaired by Leslie McAdoo Gordon and Cliff Keenan, and included major stakeholders such as defense council, former prosecutors, and a former member of the D.C. Council. The committee met several times over a nine-month period in 2010 to formulate reform

² The District Task Force on Jails and Justice, *Jails & Justice: Our Transformation Starts Today, Phase II Findings and Implementation Plan*, February, 2021,

<http://www.courtexcellence.org/uploads/publications/TransformationStartsToday.pdf>

³ The Council for Court Excellence, *Revising the District of Columbia Disorderly Conduct Statutes: A Report and Proposed Legislation*, October 14, 2010,

http://www.courtexcellence.org/uploads/files/2010_Disorderly_Conduct_Statutes_Revision_Report.pdf

legislation. Based on their findings, the report proposed a bill to update the definition of “disorderly conduct” in order to make it less vague.

As a response to our report, in February of 2013, D.C. Council passed the “Omnibus Criminal Codes Amendment Act of 2012”, which amended D.C. Code § 22–1321 to remove the profane and indecent language provision.⁴ Bills like these, which shrink the unmitigated powers of police officers on the street, are to be considered a success, no matter how small. We are proud to have been a part the efforts to get make this amendment a reality, and plan to continue similar work going forward. However, this change and more are long overdue; we should not continue to wait for one-off bills to reform small pieces of the code while people of color are still disproportionately impacted and harmed by the criminal legal system.

The Revised Criminal Code Act of 2021 provides the District with the opportunity to enact many reforms, like that of the disorderly conduct statute, which will improve the lives of D.C. residents, while also helping to update and modernize our criminal code. It is comprehensive and ambitious, finally restructures the archaic language of the original code, and is targeted to reduce the racial disparities within D.C.’s criminal sentencing. The Council for Court Excellence strives to make the District a leader in justice reform. We commend the Criminal Code Reform Commission for their efforts in drafting this bill.

Thank you for your time today, this concludes my testimony. I look forward to answering any questions you may have.

⁴ Omnibus Criminal Codes Amendment Act of 2012, D.C. 19-677, (2013).