



Washington State Bar Association

COUNCIL ON PUBLIC DEFENSE
FEBRUARY 18, 2022, 9:30AM – 12:00PM VIRTUAL/VIDEOCONFERENCE
MINUTES

CPD voting members: Travis Stearns (Chair), Jason Schwarz (Vice-Chair), Justice Gordon McCloud, Chris Swaby, Rachel Cortez, Louis Frantz, Rebecca Stith, Paul Holland, Anita Khandelwal, Larry Jefferson

CPD Emeritus members (non-voting members): Ann Christian, Eileen Farley, Bob Boruchowitz

WSBA Staff: Bonnie Sterken

Guests: Kevin Flannery, Katrin Johnson, Sophia Byrd McSherry, Lindsey Townsend, Ali Hohman, Grace O'Connor, Malia Brink, Shoshana Kehoe, George Yeannakis, Jaime Hawk, Maialisa Vanyo

Absent: Kathy Kyle, Abe Ritter, Christie Hedman, Judge Drew Henke, Jonathan Nomamiukor, Leandra Craft, Brenda Williams, Judge Patricia Fassett, Jason Bragg, Matt Heintz, Matt Anderson, Arian Noma, Mohammad Hamoudi

Minutes: The January minutes were approved without edits.

Oregon Project Report: Malia Brink shared about the Oregon Project Report. She shared about the Standing Committee on Legal Aid and Indigent Defense (SCLAID) workload studies that provided caseload analysis and an analysis determining if there is a staff deficiency or excess within a system. She provided more in-depth details on what data was collected and analyzed in Oregon. Overall, they learned Oregon has 31% of the needed attorneys to cover the existing caseloads. Knowing this can lead to steps to address the discrepancies. Malia addressed questions and the Council had a discussion.

Office of Public Defense Report: Larry Jefferson reported that he is concerned for the front line attorneys. COVID continues to change the way people practice law and creating court backlogs. He is also concerned with directors managing the caseloads. He is hearing about retention issues for attorneys. OPD is considering whether to invest in a caseload study, but they are looking at the national study first. He is making a presentation to the OPD Advisory Board in August about areas for improvement. He is looking at issues of restorative justice. He is also looking at the task force on the Race in Criminal Justice Report, which is influencing their next steps.

Sophia Byrd McSherry reported that the legislative session is over halfway complete. The Senate and House will release their draft budgets in the following week. The big requests include staffing and space issues, direct representation for clients around increased vendor funds, and a triage team to streamline the Blake process. Sophia also shared bills relating to public defense issues and where they are in the process.

Larry shared that Douglas County is setting up a public defense system, Kittitas county is starting a public defense advisory committee, and other counties are setting up a pilot program relating to juvenile justice.

Washington Defender Association Update: Ali Hohman reported WDA's post-conviction work. They have been working closely with the Clemency Project and OPD. The defender conference will be online April 29. The theme is dismantling barriers. The keynote speakers are from the American Equity and Justice group. Justice Montoya Lewis is also presenting. They hope to bring people together in person sometime in the summer for juvenile justice trainings. She shared about additional legislation that they are tracking.

Legislative Updates: Jaime Hawk shared about HB 1412 relating to LFOs. Several other bills are not going forward. The sentencing enhancement bill is still moving forward. She also shared about other bills that are in the works.

CrRLJ 3.3 and 3.4 Proposed Rule Change: Jason Schwarz provided an update on how the request to the BOG went for the CPD to submit comments on the proposed changes. Due to a number of obstacles, the CPD is not pursuing approval to submit the comments. He encouraged people to submit their own comments as individuals, and Jason noted that he is reaching out to directors to see if they would like to submit comments that are consistent with what was discussed. The comment deadline is February 28. Justice Gordon McCloud noted that the SCJA and Court Recovery Task Force have submitted related proposals that will be before the rules committee in March.

WSBA Equity and Disparity Workgroup: Rebecca Stith reported on the work of the workgroup that was launched in the summer of 2020. She shared about the structure of the workgroup and membership. She sees a need to bring on more voices that can bring an active public defense practice perspective. They are looking at possibly making changes to rules and policies in pursuit of race equity. Their subcommittees include reviewing General Rule 12.2. The other subcommittee is looking at virtual court proceedings and in person court proceedings. She has been collecting feedback from others on the CPD in discussions about the types of proceedings that they see in public defense.

Standards Committee Report: Bob Boruchowitz reported that they continue to work on open caseloads and fully supported issues. They are conducting interviews with practitioners around the state.

CPD Recruitment Update: Jason Schwartz reported that we have a number of open seats and opportunities for folks to be reappointed. He encouraged members to reach out to folks who might be interested in applying.

Announcements: Sophia Byrd McSherry shared about Senate Bill 5793 that would clearly authorize committees to provide stipends for people to participate in state commissions and committees. She noted that the WSBA might want to consider adopting the same practice.

Jason noted that we will put out a doodle poll to potentially reschedule the March meeting.

The meeting adjourned at 11:18am.