

Charter: WSBA Council on Public Defense

(Revised January 2023)

Purpose and Mission

A WSBA Committee on Public Defense was established in 2004 to implement recommendations of the WSBA's Blue Ribbon Panel on Criminal Defense. Original membership was appointed by the President and confirmed by the Board of Governors. The Committee on Public Defense's recommendations were acted upon by the Board of Governors during FY 2007. One of these recommendations was that the Committee on Public Defense be extended through December 2008 to study, focus and follow-up on unfinished public criminal defense, dependency, and civil commitment issues.

While the extended Committee on Public Defense made significant progress on the issues identified in its charter, it became apparent that maintaining and improving constitutionally effective public defense services in Washington required an ongoing committee with a mandate broad enough to address both new and recurring public defense issues. Having found that the Committee on Public Defense provided a unique and valuable forum for bringing together representatives of the bar, private and public criminal defense attorneys, current and former prosecutors, attorneys, the bench, elected officials and the public, in 2009 the WSBA Board of Governors established the Council on Public Defense as an advisory council of the WSBA.

The Council on Public Defense is charged with the following tasks:

1. Recommend amendments to and mechanisms to assure compliance with public defense standards and performance guidelines to the BOG and the Washington Supreme Court.
2. Promulgate "Right to Counsel" educational materials and programs for the public, including clients and community members, bench, public defense administrators, elected officials, and the bar concerning the constitutional right to counsel.
3. Develop "Best Practices" guidelines for public defense services contracts.
4. Address current issues relating to the provision of constitutional public defense services in Washington, including supporting efforts to ensure adequate funding is available.
5. Seek, review and recommend possible improvements in the criminal justice system which might impact public defense or the ability to provide public defense services.
6. Improve delivery of defense services in Washington by examining and reporting on public defense systems and projects.
7. Develop recommendations concerning the most effective and appropriate statewide structure for the delivery and accountability for defense services.

8. Evaluate and make recommendations for all practice areas for which counsel may be appointed.
9. Develop performance guidelines for attorneys providing public defense services in criminal, juvenile offender, dependency, civil commitment, Becca and other cases to which counsel may be appointed.

MEMBERSHIP:

The Council on Public Defense is comprised of 23 voting members and up to seven emeritus members. Nominations are made by the entities listed below, with all appointments confirmed by the WSBA's Board of Governors. These members do not serve as official representatives of these entities, but rather are appointed based on their knowledge, expertise, and a commitment to providing constitutional public defense services in Washington.

The Chair and Vice-Chair shall be appointed by the WSBA President-elect. Each shall serve a two-year term, with the Vice-Chair becoming Chair at the end of the second year and a new Vice-Chair appointed. Except as noted, the members of the Council shall be appointed for two-year terms and be eligible for reappointment for two additional two-year terms, totaling six years of service. The Chair may nominate up to seven former Council members whose eligibility for voting membership has expired, to serve as non-voting emeritus members for two-year terms¹.

The Immediate Past Chair performs such duties as may be assigned by the Chair or the Council. The Immediate Past Chair will perform the duties of the Chair in the absence, inability, recusal, or refusal of the Chair and Vice-Chair. The Immediate Past Chair is not a voting member of the Council except when acting in the Chair's place at a meeting of the Council and then only if the vote will affect the result.

The voting membership is as follows:

Core Members (no term limits)

- The Director of the State Office of Public Defense
- The Director of the Washington Defender Association
- One Washington Supreme Court Justice

Nominated by Outside Parties

- One Superior Court judge, recommended by the Superior Court Judges Association
- One District or Municipal Court judge, recommended by the District and Municipal Court Judges Association
- Three public defenders, recommended by the Washington Defender Association
- One representative from each of the three Washington law schools, recommended by the Dean of the school

¹ Non-voting emeritus members are not eligible for WSBA expense reimbursements.

- One representative from civil legal services, recommended by the Access to Justice Board

Considered Through WSBA Application Process

- Three current or former prosecutors/city attorneys, recommended by the Council chair, Vice-Chair and Board of Governors Liaisons
- Six at-large members, at least one of whom has a contract for or provides public defense services and at least one of whom is a public member, recommended by the Council chair, Vice-Chair and Board of Governors Liaisons.
- Two representatives from local government or public defense administrators, recommended by the Council Chair, Vice-Chair and Board of Governors Liaisons

Voting Procedures

All Council members, other than emeritus members, are eligible to vote. Judicial members may choose to recuse themselves from voting relating to any matters. If judicial members choose to recuse themselves from votes relating to court rules or legislation, on those occasions, and only on those occasions, the membership of the Council, for purposes of determining whether a supermajority have voted in favor or against a proposition, shall be reduced by the number of judges who have recused themselves. This provision does not apply if a judicial member is merely absent.

Attendance Requirements

Council members who have three consecutive unexcused absences in any 12-month period will be considered to have resigned from the Council. The Council may seek a replacement member through the regular WSBA volunteer process, unless the absent member was nominated by an outside party. In that case the outside party will be asked to appoint a replacement.

Council members may be excused for good cause by the Chair. Such an excuse should be sought prior to the meeting.