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Washington State Bar Association

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COUNCIL ON PUBLIC DEFENSE  
DECEMBER 4, 2020, 10:00AM TO 12:00AM VIRTUAL/VIDEOCONFERENCE  
MINUTES

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**CPD voting members:** Travis Stearns (Chair), Jason Schwarz (Vice-Chair), Abraham Ritter, Justin Bingham, Rachel Cortez, Lou Frantz, Matt Heintz, Kathy Kyle, Christie Hedman, Judge Drew Henke, Joanne Moore, Chris Swaby, Justice Sheryl Gordon McCloud, Rebecca Stith, Deborah Ahrens, Jason Bragg, Brenda Williams, Judge Patricia Fassett, Nick Allen, Jaime Hawk

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

**WSBA Staff:** Diana Singleton, Bonnie Sterken

**Guests:** Sophia Byrd McSherry, Katrin Johnson, Ali Holman, George Yeannakis, Maialisa Vanyo, Kevin Flannery

**Absent:** Eric Hsu, Natalie Walton-Anderson, Matt Anderson

**Minutes:** The November minutes were approved without edits.

**History of the CPD and Standards:** Katrin and George shared about the history of the CPD and the Standards for Indigent Defense Services. They shared the structure of public defense across the state, including the division of public defense agencies, nonprofits, contracts, and areas without a public defense entity. They summarized the growth of public defense in Washington, starting with the first public defense office in 1960. They outlined the history of developing the Standards and what the Standards are intended to accomplish. They summarized how the Standards are being used in practice today. The Council discussed the 2019 OPD report on how the Standards are being implemented.

**Equity Conversation:** Diana summarized the conversation that the CPD started last month to move forward on equity conversations, including the various ideas of where to begin. After a brainstorm discussion today, the Council will form a workgroup to develop a proposal on what the CPD should prioritize for this year and beyond. The Council had a conversation and brainstormed the following ideas:

- Rebecca can loop in the WSBA equity and disparity workgroup
- Rebecca also shared about a local group in Pierce County trying to do their own collection of data. If we do our own data collection, need to make sure we are aligned with other groups and collaborating efforts and avoid duplication.
- Focus on getting clients and families involved as a high priority
- Professor Chang's task force is meeting monthly and their report will be shared by the summer
- SU Diversity Equity and Inclusion Committee looking at diversity and equity issues at SU Law and with the students. Looking at supporting students to be prepared to deal with these issues after school as well. Interested in how students can get involved and supported.

- How to include the private bar in the conversation? Expand the brainstorming to raise level of practice and learn from each other.
- Possibly ask WACDL for a liaison to WDA/CPD (Lou and Christie can follow up)
- OPD has been focusing on trainings a lot and can help make more connections and build opportunities
- Other trainings, like being done by WDA, WSBA, etc. – get an inventory of everything going on and have those groups talk to each other to make sure folks know about the opportunities (rather than CPD create new trainings)
- Collecting data with partners like SU and OPD and the Commissions. Get inventory of who is collecting data already so that CPD can concentrate on what is not being done by anyone else and coordinate the efforts that are being made. Try not to recreate the wheel
- Look at prosecutorial charging of sentence enhancements and propose changes – could be a big area of impact
- Need to help with analysis of the data that’s been collected (some groups struggling to analyze with the right lens)
- Create a report outlining all the work that has been done, is underway, and where the holes are – then go to the legislature to help fill those gaps
- CPD could serve as a clearing house of information being gathered
- Identify system to support practitioners in doing an audit of their work through a race equity lens

Travis shared about the January Council meeting. The Council will take one hour to brainstorm more on this and decide whether to create additional subcommittees or workgroups. In the meantime, folks should let the chairs know their capacity to work on projects. The Council will consider one or two workgroups that look at organizational issues or community/systemic issues. The meeting will start at 9:30am and then will break into smaller groups to discuss committee work.

**Independence Committee General Rule:** Ann presented additional edits that were made to the new General Rule that makes it clearer to judges what role they play. The original draft was approved at the last meeting but additional comments and edits were added. The edits discussed at the last meeting were incorporated into section (d) and within the authority that the full CPD gave the committee. The Committee made additional edits to clarify further. The standards committee also met with regard to case weighting and incorporated edits based on those conversations in section (c). Additional edits were then added based on feedback that was collected from a judge about concerns with monitoring the quality of representation. The Committee presented two potential options to remedy these concerns. Ann asked for feedback on the edits, and whether the CPD should send out the draft rule for more comments to stakeholders. The Council had a discussion and the committee members addressed questions. Christie moved to accept select edits highlighted in Sections (c) and (d), noting that the Committee will continue to review additional revisions regarding quality of representation for later consideration. Deborah seconded. After discussion, Travis moved to table to conversation to the next meeting to take a vote on the entire document at once, but did not receive a second. After additional discussion, the Council approved the edits to Sections (c) and (d). Justice Gordon McCloud abstained.

The Independence Committee will continue discussing the two options for more clarity on a judge’s role in monitoring the quality of representation and bring a draft back to the Council in January for a discussion and vote.

**OPD Budget Request:** Travis shared that the OPD budget request is going to the legislature in 2021. A letter was circulated before the meeting to support the OPD budget. Travis noted that the Council has already voted in the past verifying that this issue is in compliance with GR 12.2. Rebecca moved to approve the letter, and Jason seconded. All approved.

**Honoring Joanne Moore:** The Council took the remaining meeting time to honor and thank Joanne Moore for her service to public defense in Washington as she enters retirement.

The meeting adjourned at 12:00pm