



Washington State Bar Association

COUNCIL ON PUBLIC DEFENSE
FEBRUARY 22, 9:30AM – 12:00PM VIRTUAL/VIDEOCONFERENCE
MINUTES

CPD voting members: Jason Schwarz (Chair), Maia Vanyo (Vice-Chair), Arian Noma, Jonathan Nomamiukor, Rachel Cortez, Abigael Pence, Erika Rutter, Molly Gilbert, Paul Holland, Miya Titova, Anthony Powers, Kathy Kyle, Christopher Swaby, Louis Frantz, Christie Hedman, Kevin Flannery, Anita Khandelwal, Justice Sheryl Gordan McCloud, Larry Jefferson

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

WSBA Board of Governors Liaison: Francis Adewale

WSBA Staff: Bonnie Sterken, Catherine Schur

Guests: Geoff Hulsey, Sarah Hudson, Liz Mustin, Lei Young, Victoria Hu, George Yeannakis, Katrin Johnson, Gordon Hill, Shoshana Kehoe, Sophia Byrd McSherry

Absent: Judge Marla Polin, Judge Dee Sonntag, Leandra Craft, Abraham Ritter

Revised WSBA Indigent Defense Standards: Jason Schwarz gave a comprehensive overview of the efforts to update the Standards and what was changed. He provided an overview of the survey results from the survey that was sent in February to practitioners about the revisions. He summarized the National Public Defense Workload Study finding, which ultimately showed public defenders need more time to serve clients and a more robust system for calculating the resources needed for various cases. He compared the study to the current caseload standards and discussed where they are not in alignment. He explained how the Standards Committee reviewed the current Standards in comparison to the national study and what they are recommending changing. He also discussed a proposed implementation plan over the next 3 years. He noted that the CPD's role is to recommend best practices for Standards but is not responsible for funding and enforcement. The CPD can provide input on these latter items. He reminded that the CPD had voted on all Standards except 3 last month, but some additional technical changes were made, and he will ask the CPD to vote again. The focus of the meeting today is to review Standard 3 for a vote. Jason also shared that OPD has sent a letter asking the CPD for caseloads related to family defense and appeals. The Council had a discussion. Maya Vanyo also proposed a longer implementation period moving from 3 year to 5 years to address the massive undertaking of making these changes. The CPD discussed the implementation period. There were some comments in favor of an extended timeline as well as comments supporting the recommended 3-year timeline. The main debate revolved around how challenging implementation will be and balancing the consequences of taking too long to implement. It was also noted that a need for stronger enforcement is a key part of the plan. Jason moved to adopt the updates to the Standards (minus 3)

made since the last meeting, which was largely formatting and unrelated to the implementation period. Kevin Flannery seconded. The motion passed by supermajority with one judicial abstention.

Jason Schwarz moved to also adopt the proposed revision to Standards 3 including a 3-year implementation timeline. The motion was seconded. The motion passed with supermajority with one judicial abstention.

Maia Vanyo moved to amend the timeline to extend the implementation period to 5 years. Motion to extend implementing. Abigael Pence seconded the motion. The CPD had a lively discussion looking at the pros and cons of a 3-year implementation timeline and a 5-year implementation period. The motion did not pass with 8 yeses, 9 nos, and 1 judicial abstention.

Next Steps: Jason Schwarz shared that the Standards document will be finalized and sent to the BOG along with a cover memo, and a report that goes into more methodology into the process. Francis Adewale encouraged CPD members to attend the meeting for the discussion and the vote. Staff will send the Zoom details to join. He also encouraged CPD members to contact their district Governors ahead of the meeting to address questions and voice their opinions.

Standards enforcement will be discussed at the March CPD meeting.

Jason acknowledged all the hard work to finalize the Standards.

OPD Legislative Update: Sophia Byrd McSherry gave an update on the legislative process. HB 2001 relating to judicial discretion is not getting scheduled for a public hearing and will likely be done. Some good budgets have come out of the house and senate for a variety of activities, including the internship opportunities with OPD. Next Friday is the next deadline.

The meeting adjourned at 11:31am