



Washington State Bar Association

COUNCIL ON PUBLIC DEFENSE
OCTOBER 13, 10:00AM – 12:00PM VIRTUAL/VIDEOCONFERENCE
MINUTES

CPD voting members: Jason Schwarz (Chair), Maia Vanyo (Vice-Chair), Paul Holland, Kathy Kyle, Rachel Cortez, Kevin Flannery, Judge Sonntag, Christopher Swaby, Abe Ritter, Louis Frantz, Christie Hedman, Jonathan Nomamiukor, Anita Khandelwal, Leandra Craft, Justice Sheryl Gordan McCloud, Judge Marla Polin, Erika Rutter

CPD Emeritus members (non-voting members): Bob Boruchowitz

WSBA Board of Governors Liaison: Francis Adewale

WSBA Staff: Bonnie Sterken,

Guests: Sophia Byrd McSherry, Katrin Johnson, Christine Olson, Nikhil Ramnaney, Andrew Walchuck, Molly Gilbert, Geoff Hulsey, Molly Sullivan, Jaxi Sehorn and others

Absent: Anthony Powers, Arian Noma, Travis Stearns, Larry Jefferson, Ann Christian, Eileen Farley

Announcements: Jason Schwarz announced the CPD will be adding a meeting to the 1st Friday in November to discuss the revised draft WA Standards and recently released national standards. Jason also shared that the CPD has received a letter from the Court asking for feedback on the national workload standards. The Court asked for a response by November 29 and Jason will draft a letter providing the Court an update on the CPD's progress. The CPD will also vote on supporting the Office of Public Defense legislative budget request. Jason introduced the newest members, Maya Titova, Judge Sonntag, and Judge Polic as well as Francis Adewale as the new BOG liaison.

Standards Committee Update: Bob Boruchowitz reported on the committee's work to revise the Standards and a proposal to the Court on the Court rule. They are close to finishing Standard 14 and hope in November to have a detailed discussion about the draft. Bob also summarized the update on the national standards and how they developed their recommendations for workload standards.

The national study categorizes work that public defenders take on and how it relates to the felony categories as part of the formula to calculate workloads. The study also explains what the changes have been in the practice over the past decades. The questions that the Council need to consider is whether to use the 11 categories in the national report, what billable year will be used in the evaluation, and what does the Council think about the workload standards that the national study presents.

Bob explained that there is not an expectation that adopted changes to the WA Standards will be implemented in one step and will need to be phased in. They are discussing phasing the Standards geographically based on types of cases and where those cases are highest. Bob recommends a 3-year implementation process. There will also be a period for the proposed rule changes to make its way through the rules process, allowing time for laying the groundwork in terms of funds and awareness.

Bob also noted that part of the recommendation needs to include diversion and other alternatives. Alongside this are the recruitment and retention issues for public defenders. The current draft tries to make it easier to get qualified for Class A felonies and other pathways to get qualified, such as attending a trial academy in some cases. Other items Bob highlighted included a definition section that was sent to the listserv this week and discussions on civil commitments.

Bob addressed questions and the Council had a discussion. Individuals gave input and noted areas where implementing the potential new Standards may be challenging. It was also noted that different jurisdictions may have different challenges and needs. There was a discussion about potential training substitutes when trial experience is not available, or a training plus model. Other members provided on the ground feedback from practitioners who are reviewing the draft suggestions, and noted there are concerns about how this will be financially implementing with already limited resources. Any plan needs to include additional state funding for public defense, more funding for OPD to provide trainings, the addition of statewide supervisory roles that don't exist in some places and limiting the power of the state on the oversight. The revised Standards will include implementation guidelines and a funding roadmap. Sophia Byrd McSherry shared additional context to funding asks the Office of Public Defense is working on that may lead to expanding training opportunities. The Council also discussed specific qualifications and restrictions in the current draft and how that may impact the work. They noted that there is a missing enforcement piece when an office cannot meet a Standard. The Council also discussed a draft document that recategorizes cases with weighting and gathered feedback about whether it would doable.

Jason noted that the CPD has a letter from the Court asking for input on the workload standards. This conversation will continue in November. Justice Gordon McCloud noted that the Court sees that this is an urgent issue but is aware that the CPD may need time. The CPD will likely submit a letter to the Court with an update and timeline for making a final recommendation. The conversation will also continue looking at how to bring funders into this conversation.

The meeting adjourned at 12:03pm