



Washington State Bar Association

COUNCIL ON PUBLIC DEFENSE
FEBRUARY 24, 9:30AM – 10:30AM VIRTUAL/VIDEOCONFERENCE
MINUTES

CPD voting members: Jason Schwarz (Chair), Maia Vanyo (Vice-Chair), Rachel Cortez, Erika Rutter, Larry Jefferson, Mohammad Hamoudi, Arian Noma, Taylor Herring, Kathleen Kyle, Jonathan Nomamiukor, Christopher Swaby, Judge Drew Henke, Justice Sheryl Gordon McCloud, Louis Frantz, Kevin Flannery, Abraham Ritter, Paul Holland

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

WSBA Staff: Bonnie Sterken

Guests: Geoff Hulsey, Sophia Byrd McSherry, Molly Sullivan, Ali Hohman, Jonathan Patnode, Katrin Johnson, Shoshana Kehoe-Ehlers

Absent: Judge Patricia Fassett, Leandra Craft, Anthony Powers, Christie Hedman, Anita Khandelwal, Jason Bragg

Race in the Criminal Justice System 2.0: Mo Hamoudi and Ali Hohman shared about the work of the task force. A group of collaborators overviewed a series of issues and recommendations to advance multiple objectives around diversity, independence and improving standards. The theme that repeated itself was the objective of increasing confidence in process and outcomes. To do so, public defense needs to be diverse and independent to carry out the 6th amendment objectives. Mo and Ali reviewed some of the specific recommendations in the report including statewide tracking of cases to avoid justice by geography, creating an ombudsman office, proper funding and staffing of public defense, coordinated statewide effort to hire diverse attorneys and staff, trainings on structural competency, racism and implicit bias, providing OPD greater authority to address problems, creating more transparency and procedure around sentencing, funding for representation in post-conviction and collateral matters, giving public defenders independence in doing their jobs, and creating and implementing uniform standards.

Kathleen Kyle shared about the work they are doing in the Snohomish County Public Defender Association around equity. They have programming to build anti-racism practices in the office. She highlighted the creation of an anti-racism committee, compensating for multilingual skills, sustainability consulting (i.e., access to licensed therapists), monthly trauma processing groups, attempting to flatten the hierarchy of legal work, implemented a talent pipeline to improve hiring, book discussions, and connecting with other community organizations. They have struggled to develop a peer-to-peer mentoring group, but they are working on that by collecting data to identify disparities and make improvements. Kathleen recommended working with experts to established shared language and a shared framework, develop conflict resolutions plans, addressing leadership issues, identify the issues that are impacting employees of color, being proactive in identifying problems before they show up, and being prepared to fail forward.

The Council had a discussion. They also discussed ways that the Council could move forward on these topics:

- Influence the improvement of data collection in the courts
- Addressing staff and attorney retention
- Trainings on bias and anti-oppression that may be required

Minutes: The January minutes were approved with a minor edit.

Standards Committee Update: Bob Boruchowitz reported that the committee has been working hard to review the entire set of Standards. They will propose to slightly amend the Standards to provide some areas of clarification. They will have a package for the Council to review in a couple of months. Simultaneously, they are still waiting for the national workloads report, tentatively expected at the end of March. They are hoping that the Court will request that the CPD provide recommendations based on the national standards. The committee will start with mapping the national standards with Washington state caseload data. The NAPD is having a webinar on March 31 where they will discuss implementation of the new national standards. It is becoming clear that most offices will need to increase their resources and/or decrease workloads. The folks from New Mexico have suggested partnering with Moss Adams to conduct the FTE analysis and Bob agrees that this is a good option and raised the issue of needing to find funding to do so. It was noted that there may be requirements for established a vendor contract to do the analysis. Bob addressed questions.

Washington Defender Association Update: Ali Hohman reported that the Defender Conference will in person at Sun Mountain at the end of April. The theme is “Effective Assistance of Counsel”. She shared about the agenda and a few highlighted speakers. She encouraged folks to reach out if they have requests or ideas for trainings throughout the year.

Jason Schwarz gave a legislative update. WDA has been working with Representative Tarra Simmons on a Blake bill that would have an impact on OPD, including staffing, budget, and new processes. How the bill proceeds could impact public defense quite a bit. There is another bill that would seek to amend portions of RCW 10.77. This would create the ability for DSHS to work with jails to create therapeutic units. WDA is opposing it due to some provisions in the bill, and Disability Rights WA is also in opposition.

Sophia shared that 5440 and 5415 are being reviewed and still moving. They are also working on 5046 that relates to providing counsel. Larry Jefferson also noted that the legislator is discussing recriminalizing drug possession and they are having discussions to move the conversation away from criminalization. They also discussed the budget request that is ongoing.

WSSC Rules Committee Proposals: Jason Schwarz shared that the WSSC Rules Committee received a proposed Court rule by a person who is currently an inmate relating to post-conviction relief. The Court reached out to ask if the CPD had a comment about supporting the rule or other thoughts. There were three different proposals in the materials. The Council discussed the content of the proposals. There was a note that extending deadlines are a good idea but did not feel a need to comment on the bulk of the proposals. Jason will confer with folks at WDA and other CPD members to gather input and recommend input to the WSSC Rules Committee.

GR 12.2 Proposed Revisions: Eileen Farley shared about the proposal that was included in the meeting materials. She had asked the Council to review this request at the last meeting for discussion today. She provided context that WSBA is an integrated mandatory bar association and the recent lawsuits related to compelled speech. She provided an overview of what GR 12.2 currently says and the proposed changes to remove the language on “social and political issues”. Eileen thinks that this revision does not reconcile well with the mandatory nature of WSBA and issues around compelled speech. Eileen does not believe that the BOG should approve this change. The Council had a discussion and decided to not take a position but encouraged members to provide individual comments if interested.

Race Equity Committee Updates: Abe Ritter reported that the first equity forum will be on March 29 from 12pm – 2pm. The invitation has been finalized and will be sent out broadly next week. He shared the link to register and asked CPD members and guests to share it with their networks. Abe addressed questions.

Celebrating Gideon at 60: Jason Schwarz will follow up on plans with WSBA and will send a notice to the listserv.

The meeting adjourned at 11:29am