



WASHINGTON STATE BAR ASSOCIATION

CRIMINAL LAW SECTION NEWSLETTER

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Criminal Justice Institute A Huge Success!

The 21st Annual Criminal Justice Institute, a CLE geared towards criminal justice practitioners in Washington, was held October 9-10 in Burien at the Washington State Criminal Justice Training Commission Center. Attendees were treated to two days of informative and helpful sessions on updates in evidence, search and seizure, and substantive law.

The seminar began with a session on updated court decisions and legislation on evidence by the foremost authority on Washington evidence law, Karl Tegland. The evidence session included many emerging developments in evidentiary issues, including the admissibility of statements in medical examinations and testimonial hearsay in forensic laboratory reports. As always, Mr. Tegland provided many useful practice tips relevant to many attendees' pending cases.



Karl Tegland

A presentation on the intersection of animal law and criminal law was given by Denise Lukins of Vancouver. Crimes against animals, including federal and state crimes, fish and wildlife regulations, and crimes involving the use of animals were all covered in this presentation.

Updates on 2014 court decisions and legislation were presented to attendees by Professor Deborah Ahrens of Seattle University School of Law and Tom McBride of the Washington Association of Prosecuting Attorneys. Both state and federal case updates as well as new statutes in Washington were covered.

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What's missing from this newsletter? YOU.

If you are interested in writing an article for the Criminal Law Section Newsletter, please contact C. Dale Slack at cdslack@slack-law.com. In the past, newsletters have been 10-20 pages, so all content will be considered. Newsletters will be published quarterly and submissions must adhere to certain guidelines. See page 11 for more details.

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Impacts of Legalized Marijuana on Firearm Rights

AARON PELLEY, SEATTLE

Medical and recreational use of cannabis is being tolerated at many levels of government. However, there is one constitutional issue that remains undecided in Washington: firearm rights. Currently, it is unlawful for a user of illicit drugs to own, purchase, or possess a firearm at both the state and federal level. Unfortunately, this includes cannabis. Courts in other jurisdictions have tackled the use of cannabis and the possession of firearms, but none of the decisions seem to agree with each other. This apparent conflict is picking up steam with the legalization of recreational use of cannabis in two states and the medical use of cannabis that is rapidly expanding across the country. Eventually the Department of Justice (DOJ) and appropriate state officials will need to draw a bright line defining the policies governing lawful use of cannabis and firearm possession. Within the last couple of years we have seen a preview of the impending showdown.

A seminal case on the subject occurred in May of 2011, when Oregon's Supreme Court examined the murky issue. Leland Berger, a cannabis attorney in Oregon and a member of NORML's legal committee, decided to take a case involving denial of a Concealed Handgun License, based on the fact that the applicant was a registered medical cannabis patient. The Justices issued their opinion as follows:

[T]he sheriffs of Jackson and Washington counties withheld concealed handgun licenses from persons who met all of the statutory conditions for issuance of such licenses, but who admitted to regular use of medical marijuana pursuant to registry identification cards issued under the Oregon Medical Marijuana Act, ORS 475.300 to 475.346. When the sheriffs' actions were challenged in court, the sheriffs responded that, to the extent that Oregon's concealed handgun licensing scheme does not concern itself with the applicants' use of medical marijuana, it is preempted by a federal prohibition on the pos-

session of firearms by persons who, under federal law, are "unlawful user[s] of a controlled substance." 18 USC § 922(g)(3). Both trial courts and, later, the Court of Appeals, rejected that preemption argument and held that the concealed handgun licenses were wrongfully withheld. We allowed the sheriffs' petitions for review and now add this court's voice to the lower courts': We hold that the Federal Gun Control Act does not preempt the state's concealed handgun licensing statute and, therefore, the sheriffs must issue (or renew) the requested licenses (emphasis added).

Although the case was based on federal preemption, the holding still stands that an Oregon resident, as a registered patient, may lawfully obtain a Concealed Handgun License as long as he or she meets the other criteria laid out in the statute. However, relatively soon after this decision, the Bureau of Alcohol, Tobacco and Firearms (BATFE) decided to release their own statement in regard to medical cannabis and firearm possession. In that statement Bureau Assistant Director, Arthur Herbert, writes in an open letter to all gun sellers:

Any person, who uses or is addicted to marijuana, regardless of whether his or her State has passed legislation authorizing marijuana use for medicinal purposes, is ... prohibited by Federal law from possessing firearms or ammunition. There are no exceptions in federal law for marijuana purportedly used for medicinal purposes, even if such use is sanctioned by state law.

This decision by BATFE is reflected in the policy found on form 4473. Prospective firearm purchasers must fill out this form when going through a federally licensed dealer. On form 4473, section (e) specifically asks: "Are you an unlawful user of, or addicted to, Marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance." This question can be analyzed in different ways. Before the September 2011 letter, the assumption was that medical cannabis use is lawful under state law. As such, one is not an "unlawful user." Furthermore, nearly all cannabis patients and proponents would argue that a patient is not addicted to mari-

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Current Executive Committee Members

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MEETINGS OF THE EXECUTIVE COMMITTEE

The Executive Committee meets quarterly in Seatac, Washington to discuss and vote on Section business and to plan for future business. Meetings are usually tentatively scheduled at the prior meeting and may be adjusted pending member availability. Executive Committee members are elected to three-year terms by ballots sent to Section members.

A Call for Legislation

The Criminal Law Section has been approached to draft proposed legislation impacting criminal law in the state. While the CLS has traditionally been asked to provide “pass/do not pass” advice to the legislature on bills proposed by legislative members, this would be a new and exciting opportunity for our membership to have a real and substantial impact on Washington’s procedural and substantive criminal law.

If you have ideas for legislation you would like to see proposed in the Washington State Legislature, we encourage you to contact Hugh Birgenheier at hbirgen@co.pierce.wa.us.

Student Membership

Law Students looking to make connections and network with attorneys in the criminal justice system, both in prosecution and defense, can join the Criminal Law Section as student members. Cost is \$17.75 per year. Contact any member for more information.

New Changes Coming

At recent Executive Committee meetings, several new changes were discussed to add value to section membership and make a difference in several areas of public interest. Along with proposing legislation, the Executive Committee will be considering more CLE presentations, group-discount plans for members, and networking and social opportunities for student and professional members. If you have suggestions for activities or benefits that you would like to see, please contact an Executive Committee member.

Listserve

Are you a Criminal Law Section member but not receiving email from the CLS listserve? Send an email including your name, bar number (unless a student member) and an indication that you wish to join the CLS listserve to sections@wsba.org.

Proposed RPC Changes

The Washington State Bar Association Subcommittee on Public Defender Conflicts, a subcommittee of the WSBA Committee on Professional Ethics (CPE), consulted with the Criminal Law Section Executive Committee on proposed changes to RPCs dealing with imputed conflicts of interest for public defenders who are employed by government offices of public defense.

The proposed changes would add a comment to RPC 1.0 clarifying that public defenders working in one subdivision of a county public defender office may be considered a separate “law firm” under the rules regarding conflicts of interest, but only if the subdivision is physically separate from other units of the office and there is no file-sharing between the subdivisions.

The changes would also add language to RPC 1.10 and 1.11 reinforcing that public defenders are attorneys for their appointed clients, not the counties that employ them or the State of Washington; as such, conflicts of interest for public defenders are covered by RPC 1.0, not the RPCs covering government attorneys.

The Executive Committee supported the changes to the RPCs, and Executive Committee member Professor John Strait wrote a separate letter to the CPE in support.

The Criminal Law Section Executive Committee is often consulted regarding proposed rule changes with effects on criminal law practice. If you have suggestions, comments, concerns or other input regarding the RPCs relating to your criminal law practice, please contact a member of the Executive Committee to discuss whether we can help.

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juana and should not be precluded from purchasing a firearm. The purpose of this letter, sent by BATFE, was to definitively tailor these applications to cannabis users, whether lawful or not.

In the above-mentioned Oregon case, the National Rifle Association added their voice to Leland Berger in support of cannabis patients and their second amendment rights. Brian Vicente, a recognized advocate for medical cannabis and the head of the organization Sensible Colorado, responding to the BATFE memo said, “From a patients’ rights perspective, I think this is a travesty... People shouldn’t be denied their constitutional rights based on their choice of medicine.” However, overall, most advocates and organizations have been relatively quiet on this particular subject. One could argue this legal issue faces two opposing groups, as noted in Fully Informed Jury, “Many who support legalization are unfriendly to firearm ownership, and many who support gun ownership rights are unfriendly to legalization efforts.”

The tide has changed many times on the subject over the last few years. And much of it has been media driven. One individual in King County was robbed by home invasion in 2010. He managed to fire upon his assailants, after they shot him with a shotgun. No charges were ever filed and police believe the shooting was in self-defense. The firearm was confiscated, but only as evidence of the attempted robbery, not of the use of medical cannabis.

Nevertheless, upon applying for a concealed weapons permit, the individual was denied because of his lawful use of cannabis. More recently, a man in Maple Valley now faces federal charges after shooting two people that were attempting to rob him in his home. The man was bound with zip ties as robbers cleared out his safe of guns and cannabis. He somehow freed himself and reached for the only firearm let under his mattress. He opened fire on the two assailants and they fled the scene. The man was federally indicted, this year, by a grand jury and is being prosecuted for growing medical cannabis and possessing firearms, which carries a stiff penalty with

mandatory minimum sentences for the firearm possession.

One final example is the high-profile case of Montana cannabis operator Chris Williams, who faces 80 years in prison after being indicted on eight federal marijuana and weapons charges in 2012. Williams was not charged for using his firearms or even brandishing them, but merely having legal shotguns present at the medical marijuana grow that was, by all local authority accounts, legal under Montana law. He received a five-year sentence to federal prison in February.

Medical cannabis has roots in illicit drug sales that date back 70 years, when the federal government outlawed its possession. However, thanks to a prohibition black market, many that grow their cannabis, whether illicit or lawful, are easy targets for theft and violence. This issue can only be compounded by legalization in Washington state without any bank to deposit the “lawful” funds that these state stores are about to generate. Due to this apparent oversight by the DOJ, activists and congressmen have gained momentum on a bill to allow patients to protect themselves.

Bills have been introduced that aim to override the above-mentioned ruling by the BATFE in 2011 and

would allow those in medical cannabis to retain second amendment rights to own and possess firearms without threat of federal prosecution. This is not necessarily in response to the home invasions but rather the store owners that were facing federal weapons charges when the shops were raided by federal authorities, in spite of the fact that they were operating in accordance with state guidelines.

The bills that have been introduced would not change for illicit users in non-medical states and would even protect the recent recreational growers and users in states like Washington and Colorado. With recreational production recently being permitted in those two states, it is likely that some criminals may see these warehouse grows as a huge payday. If criminals are willing to tie up someone at gunpoint for a pound of marijuana, imagine what they would be willing to do for 100 pounds.

As public opinion on cannabis use shifts, so will the laws, albeit, more slowly than public opinion in most cases. The truth is that marijuana users should not be stripped of fundamental rights just because they choose to use an alternative medicine or, in states like Washington, lawful, recreational use. While there is currently a federal mandate that prohibits the possession of firearms by users of cannabis, change is likely coming.

2014 Legislative Action

The Criminal Law Section Executive Committee is consulted by the Washington State Legislature’s various committees on pending legislation having an impact on criminal law. In February, the Executive Committee provided a “favorable/pass” opinion on the following bills:

- SB 6094—Authorizing the use of jail data for research purposes in the public interest
- SB 5967/HB 2205—Modifying mental status evaluation provisions

Although many bills were referred to CLS, a consensus of the Executive Committee must be reached before an opinion is forwarded to the legislature. Topics of bills submitted to the Committee for the 2013/2014 session included indigent defense funding costs, unmanned-vehicle surveillance, and DUI/BUI laws.

If you know of pending legislation that you believe the Criminal Law Section should support or oppose, contact a member of the executive committee with your thoughts.

Current status of bills can be found at: apps.leg.wa.gov/billinfo/

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The keynote presentation at this year's CJI was presented by Robert Dugoni, a Seattle attorney and *New York Times* best-selling author of *The Jury Master* and other legal thrillers. Mr. Dugoni delivered a presentation on improving storytelling techniques to grab the attention of juries and judges in criminal cases, delivering arguments that are purpose-driven, credible, and personal to jurors and judges.

Breakout sessions at this year's CJI were designed for both new attorneys and seasoned practitioners.



CJI co-chair Kim Hunter introduces Denise Lukins.

Each day attendees chose from three presentations. Day One offered a new attorney class on the essentials of voir dire with a panel of experienced trial attorneys; presentations on expungement, sealing and vacating criminal history, and obtaining evidence from social media networks provided up-to-date and helpful instruction for both new and experienced attorneys. Day Two offered a presentation for new attorneys on the ethical pitfalls that exist for all of us in trial practice; other choices included a discussion of the expanding scope of *Maryland v. Brady* in Washington criminal practice, and the intersection of criminal practice with immigration law, in particular how criminal cases impact those traveling to and from Canada.

A perennial favorite presentation at the CJI has always been Judge Robert E. McBeth's search and seizure update, and this year's presentation was no ex-

ception. Attendees agreed that one hour was not quite enough for this survey of 2014 cases that changed the landscape of search and seizure for practitioners and judges. From changes in *Terry* stops to electronic privacy, Judge McBeth provided a broad overview of the cases that can make or break your cases. Judge McBeth's extensive and helpful case briefs were included in the course materials provided to attendees.

Also ever-popular is the annual presentation on ethics for the criminal practitioner by Seattle University Professor John Strait and Hugh Birgenheier, Pierce County Deputy Prosecutor. The presentation this year addressed a number of challenging and relevant hypothetical situations encountered on a nearly daily basis by criminal practitioners, as well as recent and proposed changes to the Rules of Professional Conduct.

An entertaining look at criminal defense through popular music was presented by Tacoma attorney John Cain. The slideshow covered ethical considerations, anatomy of a defense, and suggestions for arguments. The training center's sound system was definitely put to the test as this was a presentation that went to 11.

This year's CJI saw an emphasis on the issues facing all criminal justice participants— not only defense attorneys but prosecutors and law enforcement officers—caused by untreated severe mental illness. With recent budgetary constraints and the lack of easily-accessible and affordable mental health treatment, severe mental illness has become an obstacle to justice for many people in Washington and often leads to difficult situations for law enforcement, attorneys, judges, and the general public. Recent high-profile cases of difficult interactions between the severely mentally ill and law enforcement have forced us to reexamine this heartbreaking issue. Chief Steven D. Strachen of the Bremerton Police Department gave one law enforcement perspective on changes in law enforcement officers' training and practices brought about by greater understanding of mental illness and its effect on those suffering from untreated mental illness and on their families and the public as well. Chief Strachen's presentation offered a refreshing and human face to an

often overlooked or ignored problem facing police and first-responders who are often not prepared to handle difficult situations due to misunderstandings and lack of training on how to interact with those suffering from severe mental illness.

Nearly every attorney and judge involved in the criminal justice system is aware of stories of delay in the admission of defendants to Washington's state hospitals for forensic evaluation. Barry Ward, attorney and Psychology Services Supervisor at Western State Hospital (WSH), highlighted the challenges, changes, and future of forensic admissions to WSH. Mr. Ward's information showed that the situation is improving and should continue to improve as the state hospitals institute changes to more effectively deliver forensic services to the criminal justice system.

King County Sheriff's Deputy Joseph Winters presented training on how police, attorneys, and judges can better prepare to work with individuals suffering from mental disorders, traumatic brain injury, and other mental health issues. From first contact to finding help for these individuals, Deputy Winters's presentation aimed to remind all criminal justice actors of a human-based approach to handling these sometimes difficult encounters.

The CJI this year ended with a fascinating and fun demonstration by the King County Search and Rescue Association of search and rescue dogs. These volunteer trainers, handlers, and dogs have worked on some of the most challenging and courageous search and rescue operations in the state, and the presentation gave a look into the hard work behind the results KCSRA delivers.

Although the education received should have been reward enough, the CJI also featured daily drawings for statute and reference books and gift-certificates; catered lunch and breakfast was included in the tuition price for both days and opportunities to meet other attorneys, judges, and support staff were available throughout the CJI. (Attendees who walked outside for some fresh air or to take a phone call during the CJI may also have inadvertently become involved in

one of the exciting and surprising role-playing sessions by police academy trainees).



Attendees stop to give a well-deserved backscratch to Tryon, a Labrador Retriever search dog from KCSRA.

The CJI is an annual event organized by the Washington State Bar Association through the Criminal Law Section Executive Committee. This year's CJI was chaired by Kim Hunter and Hugh Birgenheier, who worked tirelessly to arrange presenters, assemble the course book, and coordinate lunches and activities.

If you missed this year's CJI, the course book, which includes case briefs, power-point presentations and outlines of information presented in the sessions, is available from the WSBA CLE store, www.wsba.org, and remember, the CJI will come again in fall of 2015. Every year, scholarships are available for attendees for whom the full price of tuition is burdensome.

If you would like to know more about the CJI, please contact any member of the executive committee.

About the Executive Committee Members

KIM HUNTER is a criminal attorney in Covington. Kim emphasizes criminal defense work with a special interest in domestic violence and DUI cases. In 2009, 2010, 2011, and 2012, she was named by Super Lawyers Magazine as a Washington Rising Star. Rising Stars names the state's top up-and-coming attorneys. She was awarded the Washington State Bar Association's Pro Bono Award every year since 2004. Before opening her private practice, Kim was an associate attorney with Tucker and Stein, P.S. There she handled private criminal defense cases as well as working as the Public Defender for the City of Bellevue and the City of Redmond. Kim is a graduate of Gonzaga Law School.

JANA JORGENSEN is an Assistant City Prosecutor with the City of Seattle. During her five years with the City she has tried hundreds of cases, worked as a Precinct Liaison for the Seattle Police Department, and is currently assigned to the Domestic Violence Unit. Jana joined the Criminal Law Section Board in March 2014 and is excited about continuing to serve the membership.

MARK VOVOS has practiced law in Spokane, representing citizens charged with major federal and state crimes throughout Washington and the Northwest for over 44 years. Mark has successfully handled multiple capital cases throughout his career, trying his first capital case in 1969. Mr. Vovos' practice focuses on complex federal litigation in all aspects of criminal defense. He also represents citizens in federal and state civil matters. He is an elected member of the American College of Trial Lawyers (1991), the American Board of Trial Advocates (1994) and the American Board of Criminal Lawyers (1980). He is a member of the Washington Association of Criminal Defense Lawyers, and serves on the Washington State Bar Association Criminal Law Section Executive Committee. He serves as an adjunct professor, teaching Litigation and Dispute Resolution, at Gonzaga University School of Law.

C. DALE SLACK is a contract public defender handling criminal and dependency cases in the "Hells Canyon Circuit" of Columbia, Asotin, and Garfield Counties, as well as the College Place Municipal Court in Walla Walla County. Dale is a graduate of the University of Idaho College of Law and previously worked at a Walla Walla firm handling civil litigation, family law, and forfeiture cases. Dale lives in Dayton and enjoys traveling, music, history, and theatre. A firm believer in professionalism and civil work relationships between opposing attorneys, he enjoys the opportunity to work collaboratively with prosecutors and other defense attorneys to improve our state's criminal justice system.

HUGH K. BIRGENHEIER is a graduate of the University of Puget Sound School of Law. From 1985 to 1987 he served as a Deputy Prosecuting Attorney for the Lewis County Prosecutors Office before joining the Pierce County Prosecutor's Office. While with the Pierce County Prosecutors Office, he has been assigned to the Family Support Division, as well as the Traffic/Misdemeanor, Narcotics/Vice, Vehicular Homicide, and Special Assault trial teams. He currently serves as the Assistant Team Chief for the Violent Crime Trial Team where he prosecutes robberies, aggravated assaults, arsons and homicides. For more than 20 years Hugh was employed as an Associate Professor of Legal Studies at Pierce College. He is also the President of the Western Washington Wrestling Officials Association.

EDWIN ARALICA is a public defender from King County. He represents people charged with felony crimes. He is on the SPRC-2 list in Washington state; death penalty qualified at the trial level. In addition to his work on the Criminal Law Section, he is a member of the Washington Pattern Jury Instruction Committee and he is on the Board of Governors for WACDL and WDA. He is a graduate of Gonzaga University School of Law and he has a Masters of Law (LLM) in Trial Advocacy from California Western School of Law. Edwin and his wife live in Seattle.

BLYTHE PHILLIPS is an associate attorney at Carey & Lillevik, PLLC. She joined the criminal law section executive committee because she believes that the section provides excellent ongoing legal education to its members and fosters open and productive dialog among all members of the criminal bar. She especially values the opportunity to work with both prosecutors and defenders for the betterment of the criminal justice system.

JOHN FAIRGRIEVE is the Chief Deputy Prosecuting Attorney of the Clark County Prosecuting Attorney's Office where he has been employed since 1994. Prior to joining the Clark County Prosecuting Attorney's Office he worked as a deputy prosecuting attorney for the Yakima County Prosecuting Attorney's Office and as a private attorney in a small firm in Portland, Oregon. John also served as an officer in the U.S. Marine Corps both on active duty and in the reserves, retiring in 2013 at the rank of colonel. John has a Bachelor of Arts degree from the University of California, Berkeley; a law degree from the University of Oregon School of Law, and a Master's Degree in Strategic Studies from the U.S. Army War College.

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Meeting Minutes

Transcribed by Secretary/Treasurer Blythe Phillips

WASHINGTON STATE BAR ASSOCIATION

CRIMINAL LAW SECTION

Executive Committee Meeting Minutes for *Saturday, October 18, 2014*

Meeting Location: 13 Coins, Seatac

Called to order: 9:18 am

Adjourned: 10:25 am

Present: Hugh Birgenheier, John Fairgrieve, Ronald Hammett, Jimmy Hung, Kim Hunter, Blythe Phillips, John Sheeran, Dale Slack, Mark Vovos, Aaron Wolff

Absent: Edwin Aralica, James Hershey, Jana Jorgensen, John Strait, Tessa Gorman,

Meeting Discussion

Minutes from Last Meeting: Hugh moved to approve, Dale (and others) seconded, approval passed

Legislative Committee: Jimmy will step down because he will be serving as chair next year. John Sheeran, John Fairgrieve, and Hugh will join. John Sheeran will try to go to the training on October 31. **Blythe or Kim** will email those who are absent to see if they are interested in being on the Legislative Committee.

Monthly sign-up for listserve emails: Oct = John Fairgrieve

Jimmy agreed to trade months with Dale; Jimmy will take Nov. '14 and Dale will take May '15.

Financials:

2015 Budget was approved – **Blythe** will send out to the executive committee

Only a few new members, but haven't gotten Sept statistics yet. We have more members than the number we budgeted for, but we have only reached 94% of the revenue for our membership fees. Presumably this is because a number of our members are comped or are law students who only pay the amount required to cover the WSBA's per member charge

Newsletter: Dale needs bios from all but 2 people. Needs a picture of Kim. PLEASE SEND IN YOUR BIOS!!

Membership:

Next year's committee leadership: Jimmy will be acting Chair, Blythe was nominated for chair-elect.

Need a prosecutor to fill the secretary/treasurer position. John Fairgrieve was nominated and accepted.

Total open positions on the executive committee: 2 prosecutors and 1 defense attorney

Prosecutor 1: Replacing Leesa Manion. The term ends in December, so the new person will be up for reelection in January.

Prosecutor 2: Replacing John Fairgrieve

Defense: Replacing Aaron Wolff

Hugh will contact the candidate from Jefferson County proposed at the June meeting. Hugh is also available to rotate down and fill the other open prosecutor position

Still need to find a defense position. Several members agreed that we should seek more gender diversity on the committee and also more geographic diversity (North, South, or East)

Kim expressed concern about consistent absences from meetings. Bylaw Art. 4 § 5 states "Three consecutive unexplained absences will subject a member or officer to removal from the Executive Committee by a ma-

jority vote of the Executive Committee.” The absences discussed were not unexplained, and so not subject to this provision.

Blythe and Jimmy proposed that advanced planning might help ensure that everyone is available for meetings. It was decided that for the 2015 year, all in-person meetings will be set out at the beginning of the year so that everyone can make themselves available. Blythe also proposed having occasional phone conference meetings during particularly busy times of year, such as legislative session and just before CJI. **There may be a conference line available through the WSBA but for a cost. We could also consider using a private service if the cost is better. Kim will look into a phone service and will contact WSBA.**

Mark suggested that the WSBA should have a free phone service and Kim pointed out that there was a conference service they were able to use to plan CJI with the WSBA team.

Reminder to the Executive Committee to renew your membership!

CJI Update: Attendance was good with lots of walk-ins. Lots of positive feedback was received. People liked having lunch provided for both days, and the attendees did well bussing their own tables after meals. One of the complaints commonly received is that there are no tables, but that is why lap-desks are provided at no cost.

Member Benefit CLE: After much discussion about the rough November 22 date for a member benefit CLE, it was determined that there was not enough time to arrange and publicize a CLE in the next month. Thus, the member benefit CLE will take place in January. A tentative date of January 10 was selected with the next executive committee meeting to occur immediately after. The current plan is to have a 4-credit ethics CLE at that time. The ethics idea was proffered during the discussion of the November date because attorneys are often seeking ethics credits close to the end of the calendar year. Several committee members felt confident that an ethics CLE would continue to draw attendance in January.

Kim and Hugh will check with John Strait on presentation and venue (SU?)

Could John Strait and Hugh continue the presentation they began at CJI?

Also proposed during the discussion for a January CLE was a legislative discussion, since it would take place as the 2015 session is gearing up.

Next Meeting: 1/10/15

Old Business

New Young Attorney Liaison – there was some confusion about how the selection process worked.

Kim asked if we could give a donation to King County Rescue Dogs who volunteered to present at CJI. \$300 was proposed as the amount. Mark Vovos moved to approve, Aaron Wolff seconded, motion passed.

New Business

Upcoming board elections:

Conducting elections by email: it's probably too late to look at this for the 2015 elections, but we should find out if we can. Can we amend bylaws to do that?

Aaron suggested that we should announce via eblast an opportunity to run for the criminal law section. Then we should have an election committee to review applications. **Jimmy and Blythe** volunteered to be the election committee.

Good of the Order

Adjourn: Blythe moved to adjourn, Hugh seconded, motion passed.

From the Editor

This is my first newsletter and my first year as a member of the Executive Committee. I am excited to be a part of this organization and to hopefully bring the membership news of what our Section and the Executive Committee are doing and can do for you, the criminal law practitioner.

Although 11 pages is an acceptable start, I would love to be able to fill 20 or more pages each quarter with writing from criminal law practitioners from across our state. We aren't necessarily looking for "law review" material for this newsletter; although scholarly or researched and cited position or informative articles are the cornerstone of a good legal publication. Here are some examples of other types of articles you might consider submitting:

- A reminiscence of a particularly interesting or difficult trial, hearing, or case that might impart a lesson to other attorneys;
- A comparison of our state's laws, rules, or procedures to those of another state or country with which you are familiar;
- A story of typical practice life in your county or area;
- An exploration of problems and difficulties faced by attorneys in your area or practice and how those problems and difficulties might be addressed by the Bar, Legislature or courts;
- An upcoming event in your area that other practitioners might be interested in;
- A piece on a hobby or recreational activity that might help other attorneys beat stress in their lives.

Please keep submissions professionally appropriate and collegial, and do your best to self-edit. If you are a recently-admitted attorney, this can be a good opportunity to show off your skills and add some entries to the "Published Works" section of your resume.

Send your submissions to me at cdslack@slack-law.com. Our next newsletter will be published in January.

JIMMY HUNG is a Senior Deputy Prosecuting Attorney for the King County Prosecuting Attorney's Office and has been practicing criminal law for the past 15 years. He graduated from the University of Washington School of Law in 1999 and joined King County in the fall of that year. During his time in the office, he has worked on all levels of felony and misdemeanor trial practice including homicides, sexual assaults, and domestic violence. He served as the Second Chair of the Domestic Violence Unit for 5 years and currently is the Chair of the Juvenile Division supervising deputy prosecutors, victim advocates, and staff at the Youth Services Center in Seattle. He enjoys serving on the Executive Committee because it affords him the opportunity to address criminal justice issues at a state level while working closely with other prosecutors and defense attorneys from various counties. The role of the Executive Committee is to advance the interests of attorneys who practice criminal law in Washington State and to work collaboratively to improve the criminal justice system as a whole.

JOHN A. STRAIT is a graduate of Yale Law School and an Associate Professor of Law at Seattle University School of Law. He maintains a private practice representing lawyers and judges in disciplinary proceedings. He also appears as a consulting expert on legal malpractice and professional responsibility standards. Professor Strait has taught, researched, and written in the field of professional responsibility and legal malpractice since 1976. He has appeared as an expert witness in 15 states and 20 counties in the State of Washington. He has been a court-appointed expert in the federal courts of Washington, Alaska, Oregon, and Hawaii. He served as Adjunct Investigative Counsel to the Washington State Bar Association Office of Legal Discipline and ran a clinical course in lawyer discipline screening complaints against lawyers for probable cause for the Washington State Bar Association from 1991-2005. Professor Strait also has served on the Rules of Professional Conduct Committee for the State of Washington for much of the last 25 years. He served as a member and Chair of the Seattle Port Authority Ethics Advisory Commission from its inception until 2009.

TESSA GORMAN has been an Assistant United States Attorney in the Western District of Washington since 2001, and is currently the Chief of the Criminal Division. Prior to her tenure at the United States Attorney's Office, Tessa was an Honors Attorney in the Criminal Division at the Department of Justice. Before joining the Department of Justice, Tessa served as a judicial law clerk for the Honorable Douglas P. Woodlock in the District of Massachusetts at Boston. Tessa is currently the Vice President of the Federal Bar Association. Since 2007, Tessa has taught Trial Advocacy at the University of Washington School of Law. Tessa is also a member of the William L. Dwyer Inn of Court. Other community involvement includes membership in the Washington Women's Foundation and the Capitol Hill/Central chapter of Partnership for Youth Justice, a program that diverts young people from the formal juvenile justice system to community-based citizen groups to address their criminal conduct. Tessa is a graduate of Yale College and Boalt Hall School of Law at the University of California, Berkeley.