



Washington State Bar Association

COUNCIL ON PUBLIC DEFENSE

NOVEMBER 1, 2019, 12:00PM TO 2:30PM AT THE WASHINGTON STATE BAR ASSOCIATION, SEATTLE, WA
MINUTES

CPD members in person: Daryl Rodrigues (Chair), Travis Stearns (Vice-Chair), Louis Frantz, Judge Drew Henke, Christie Hedman, Kim Ambrose, Rebecca Stith, Jaime Hawk, Matt Anderson, Justice Sheryl Gordon McCloud

CPD voting members on the phone: Colin Fieman, Eric Hsu, Judge Patricia Fassett, Abraham Ritter, Rachel Cortez, Kathy Kyle, Justin Bingham, Debra Ahrens, Joanne Moore, Natalie Walton-Anderson

CPD non-voting members: Ann Christian, Eileen Farley, Bob Boruchowitz

WSBA Staff: Diana Singleton

Guests: Sophia Byrd McSherry, George Yeannakis, Erica Rusher, Krista van Amerongen

Absent: Commissioner Randy Johnson, Nick Allen, and Jason Bragg

October Meeting Minutes: Daryl asked to move his name to absent since he was not able to participate in most of the last meeting. Louis Frantz moved to approve the minutes with the edit Daryl suggested. Christie seconded. All were in favor. No nays or abstentions. Motion passed.

Appellate Guidelines: Travis explained he presented the proposed guidelines to the Board of Governors (BOG) a few months ago. We received feedback and propose to change the heading in 1(b) from "holistic representation" to "other related items." Christie Hedman moved to accept the changes and proposed to seek approval of the amended guidelines at the next BOG meeting. Rebecca asked about the use of the word "advise" and Travis confirmed that it was used intentionally because of the emphasis on being client-centered attorneys. Travis explained the comprehensive process they used in reviewing these proposed guidelines, including sending the draft out to every OPD attorney for review. They have been using this for over two years already. Christie asked about the title using "Guidelines" vs. "Performance Guidelines" to make it consistent with the other performance guidelines. Travis thought that would be a good edit and moved to add this to the title. Christie made a motion to approve the guidelines with the two edits, and Rebecca seconded. All were in favor. No nays or abstentions. Motion passed.

Independence Committee: Sophia gave an overview of the work of the committee and the proposed General Rule and amendments to Standards 18 and 19. The new portion would be in Standard 19 in establishing some political independence in public defense. Christie suggested that we add equity and justice work so reform efforts are not prohibited. We are planning on sending this out for feedback to WDA and judicial associations. Travis motioned to adopt the proposals as presented. George noted that we should edit the footnotes as they do not appear accurate; we should remove the language that includes examples. Many agreed that that suggested change is reasonable. Joanne suggested that the GR 9 cover sheet should mention that there are some jurisdictions that are in accordance with this. Rebecca seconded Travis' motion as amended to take out the examples in the footnotes. The following votes were taken; 20 votes in favor; 0 votes against and 0 votes abstain.

Last Name	First Name	Yes	No	Abstain	Absent
Ahrens	Deborah	x			
Allen	Nicholas				
Ambrose	Kimberly	x			
Anderson	Matt	x			
Bingham	Justin	x			
Jason	Bragg				x
Cortez	Rachel				x
Judge Patricia	Fassett	x			
Fieman	Colin	x			
Louis	Frank	x			
Hawk	Jaime	x			
Hedman	Christie	x			
Judge Henke	Drew	x			
Johnson	Randy				x
Kyle	Kathleen	x			
Justice Gordon-McCloud	Sheryl	x			
Moore	Joanne	x			
Rodrigues (Chair)	Daryl	x			
Stearns (Vice-Chair)	Travis	x			
Stith	Rebecca	x			
Natalie	Walton-Anderson	x			

Pre-Trial Reform - Defense Resource Packet: Jaime reported that she spoke with Governor McBride about this concerns and explained the packet is for defense counsel’s advocacy. He confirmed this clarification was helpful and that he didn’t have any input on changing it and would support it. Jaime also spoke with Governor Clark (representing the district where Yakima County is located) about this concerns. He said he consulted with local prosecutor who told him not to support this. Jaime explained that the packet is not trying to change the pre-trial system; it’s just trying to offer a resource for defenders to use the existing the laws. Krista shared her experience of working in Yakima County and their pretrial reform work that started in 201. The prosecutor initially signed on, but later pulled out. And since then, the prosecutor has started a new level system, and created more requirements for people who posted bail. Daryl suggested we get an anonymized report so people know what’s going on – we can share out articles and anonymized comments. Jaime asked if the Pre-Trial Committee could

follow up with Krista to follow up on this. Jaime will present on proposed pretrial resource back at the next BOG meeting.

Letter to Spokane County Commission re: Office Model: Daryl gave a background on this issue and referenced the letter that WDA has sent which Christie had sent to the CPD listserv. Daryl spoke with Tom, the director of the Spokane public defender and he thinks the funders have the information they need. No other action or activity from CPD is needed at this point.

CrR 4.1/3.3 and CrRLJ 3.2.1: This item was not discussed and will be discussed at the next CPD meeting in January.

Standards Committee: Bob said that they will have an update at the CPD meeting in January.

Structures Committee: Eileen reported that the committee met today and reviewed the feedback they received from OPD. They will be following up and start with interviews with some set questions and work on identifying the jurisdictions to start with – they want to do small, medium and large jurisdictions. Eileen will be talking to Katrin and George on their work to survey public defense offices. They will share their work plan with CPD at the next meeting.

WDA Report: Christie Hedman reported that they are continuing to plan their CLEs for next year. They have just delivered some CLEs and plan to do a legislative advocacy training in January. They spoke with Senator Dhingra about possible funding for study and analysis on structure which can dovetail with the structures committee's work.

OPD Report: Sophia reported that they coordinated with WDA on 70.109 on sexual offender and less restrictive housing. Legislators are holding stakeholder meetings on this issue. Sophia also reported that OPD is now officially recruiting for the new role of disproportionality legal training coordinator.

Other announcements: Eileen reported that Justice Fairhurst asked Eileen to speak to the lawmakers during the Committee Days (11/21 and 11/22) to answer questions about the structures workgroup's work.

Next meeting agenda items: There was discussion about legislative agendas for the next session. Jaime reported that WDA and ACLU are working on decriminalization of bail-jumping; they are looking at gathering data to show the disparities. Jaime also shared about SB 5076 is about felony disenfranchisement which didn't get a lot of momentum last session; ACLU is working with others to bring this back at the next session. Jaime reported on SB 5819 which is a post-conviction review parole bill. Christie will send out their legislative agenda for the next session to CPD in December or January.