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Washington State Bar Association

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COUNCIL ON PUBLIC DEFENSE  
NOVEMBER 6, 2020, 10:00AM TO 12:00AM VIRTUAL/VIDEOCONFERENCE  
MINUTES

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**CPD voting members:** Travis Stearns (Chair), Jason Schwarz (Vice-Chair), Rebecca Stith, Rachel Cortez, Lou Frantz, Matt Heintz, Matt Anderson, Christie Hedman, Justin Bingham, Judge Drew Henke, Kathy Kyle, Chris Swaby, Joanne Moore, Brenda Williams, Nick Allen, Jaime Hawk

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

**WSBA Staff:** Diana Singleton, Bonnie Sterken

**Guests:** Katrin Johnson, Kevin Flannery, Sophia Byrd McSherry, George Yeannakis, Kari Reardon, Maialisa Vanyo

**Absent:** Justice Gordon McCloud, Eric Hsu, Jason Bragg, Abraham Ritter, Natalie Walton-Anderson, Deborah Ahrens, Judge Patricia Fassett

**Introductions:** Travis noted that WDA shared a written updated in the materials.

**Minutes:** The October minutes were approved without edits

**Independence Committee Proposals – Standards 18 and 19 and new General Rule:** Travis shared the history of the committee’s work to update Standard 18, create a new Standard 19, and draft a new General Rule, noting that the CPD had approved a previous version proposal which were sent out for comments and feedback in late 2019 and early 2020. The versions on the agenda for today had been updated based on that feedback and other committee conversations. The item is on the agenda for approval and a discussion on presenting the proposal for BOG for approval.

Ann provided additional context for how the proposals were drafted, including who from the Council and others who worked on it. The earlier proposals were sent to the judicial associations and WDA for review, and the committee had received four comments that were addressed at the January 2020 CPD meeting. She addressed specific edits and considerations that were incorporated into the current drafts and the importance of the independence of public defense. Ann walked through each proposal and discussed the edits, additions, and the committee’s rationale. Council members provided input and asked questions. As part of the discussion, edits were proposed to the new General Rule clarifying in subsection (d) that other court responsibilities are not impacted by the new rule. Rebecca moved to adopt the proposals, including giving the Independence Committee permission to incorporate updated language in subsection (d) of the General Rule from today’s conversation. The motion include the confirmation that the proposals are permissible under GR 12.2. Joanne seconded. The motioned passed with a supermajority, including one judicial recusal.

**Council Culture and Equity:** Travis introduced the item noting that this will be the beginning of a conversation on how to improve equity and diversity on the Council. Diana shared her role at WSBA includes supporting entities in walking their talk on equity issues. Diana gave a presentation on the Race Equity and Justice Initiative (REJI),

considerations for framing a conversation around improving equity, and led a brainstorm on where the Council would like to start doing this work. The Council had a discussion and comments included the following:

- WDA is also going through a REJI analysis and would like to coordinate with the CPD.
- Consensus on the importance of applying a race equity lens to all of the CPD's work.
- Consider adding former clients or their family members to the Council or asking former clients and their families to let the Council know how they would like to use their influence.
- Value in the Council working with REJI to do an internal analysis.
- This conversation will continue at the next CPD meeting.

**Ethics Request:** Travis shared the scope of the request in the materials. The WSBA Committee on Professional Ethics provided a draft opinion addressing a defense attorney's responsibilities with a client who is or may become involved in commitment proceedings. Travis asked Council members to review the items and send comments either to Bonnie or Travis to forward to Brooks. The Council can also put this on the agenda for December, if needed. There was a suggested to ask the ITA committee to review and bring a recommendation back to the Council. Travis will find out what the timeline is and whether there is time to discuss again in December.

**Announcements:** After discussing the need more time a CPD meeting it was decided that the next meeting will run from 9:30am – 12pm. Sophia reported that OPD has an application process opened to allocate \$1.5mil in Cares Act funding for PPE and some technology purchases. Travis reported that the CPD civil commitment proposal was adopted by the Court.

The meeting adjourned at 12:00pm