



Washington State Bar Association

COUNCIL ON PUBLIC DEFENSE
JANUARY 26, 9:30AM – 12:00PM VIRTUAL/VIDEOCONFERENCE
MINUTES

CPD voting members: Jason Schwarz (Chair), Maia Vanyo (Vice-Chair), Rachel Cortez, Justice Sheryl Gordan McCloud, Erika Rutter, Christie Hedman, Kathy Kyle, Arian Noma, Anita Khandelwal, Judge Dee Sonntag, Kevin Flannery, Larry Jefferson, Louis Frantz, Maya Titova, Molly Gilbert, Paul Holand, Christopher Swaby, Leandra Craft, Abraham Ritter, Jonathan Nomamiukor

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

WSBA Board of Governors Liaison: Francis Adewale

WSBA Staff: Bonnie Sterken,

Guests: Jeremy Ford, Stark Follis, Catherine Schur, George Yeannakis, Gideon Newmark, Grace O'Connor, Jonathan Patnode, Katrin Johnson, Lei Young, Shoshanna Kehoe-Ehlers, Sophia Byrd McSherry, Eileen Farley, Chris Graves, Victoria Blumhorst, Sarah Hudson, Tamara Gaffney

Absent: Anthony Powers, Judge Marla Polin, Abigail Pence

Minutes: The December minutes were approved with one correction to the spelling of a name.

Office of Public Defense Update: Sophia Byrd McSherry shared an update on the legislative session. A bill to provide funds for OPD to launch internship opportunities in rural areas is still making its way through the process.

New Member Orientation and 2024 Vision Setting: Travis Stearns gave a historical overview of the Council on Public Defense, highlighting the work of the Standards, Performance Guidelines, creating educational opportunities, supporting adequate funding for public defense, and recommending improvements to the public defense system. He highlighted a few key accomplishments. The group broke into small groups to discuss values and visions related to public defense. The groups shared out the visions and values that they discussed. The following are key points made during the discussion.

- CPD making sure this work continues to be representative of the PD community.
- Make sure the CPD is an open and collaborative process and voices can be heard.
- Ultimately come up with a unified voice on behalf of the public defense community.
- Vision to have a strong fully developed team approach with strong professional identifies for all roles so that representation is not attorney dependent. Component of peer advocacy. More horizontal in terms of power and decision making.
- If you have a legal issue you get to pick up the phone and get access to a public defender regardless of where the case is or other circumstances. And not just a PD, but a whole team like social workers, paralegals, etc.

- Values are equity (we are still on stolen land and working from stole bodies). We are here to serve and to be excellent. Excellence doesn't drop off after sentencing.
- Working into team lived experience, folks who have been effected and incarcerated.
- Preserving life, liberty and equity for people who need it most.
- Valuing people, compassion, service oriented.
- Ensuring all legal professionals are educated and trained to do the best they can.
- Ensure everyone who does the work is supported internally and externally (sustainability)
- Client-centered practices, both with individuals, as agencies, and the whole of public defense. Can mean wrapping in services, meeting clients where they are.
- More state engagement – funding for local gov, more authority and resources for OPD, regional defender offices.
- Importance of understanding community and where clients are from.
- Develop effective, authentic forms of assessing the quality of representation.

The CPD will return to this conversation over the year as they develop their work.

Advisory Opinion RPC(s) 1.0A, 1.1, 1.2, 1.3, 1.4, 3.8: A draft advisory opinion was sent to the CPD by the Committee on Professional Ethics asking for input. Katrin Johnson shared the background of the ethics request and how it relates to the Blake work with the Office of Public Defense. OPD is addressing the records vacating process and LFO refunds. She explained the process and inconsistencies in different counties. OPD and WDA submitted a question to the ethics advisory committee of WSBA about how attorneys can support individuals outside of typical client attorney relationships. The ethics advisory committee has drafted an advisory opinion but individuals with the CPD believe the committee used incorrect information. Jason Schwarz and other provided a draft letter in response explaining the issues. Jason Schwarz walked through the main points of the letter. The Council had a discussion and some members provided some concerns and suggested revisions to the letter. Kathy Kyle moved to approve the letter as drafted. Anita Khandelwal seconded the motion. The motion passes with two abstentions. Jason will share the letter with the Committee on Professional Ethics.

Standards Discussion: Bob Boruchowitz led the conversation about the revised Standards for adoption. He explained some of the open questions and concerns that have been raised. For example, they discussed whether to use “shall” or “should” where it describes the social worker, paralegal, and investigator ratios. Jason explained that the Standards are up for a vote today, with the exception of standard 3 that will be voted on in February. There were conversations about how changes will have a significant impact on resources and funding. One recommendation is a long, gradual plan for implementation. Some CPD members have been working on implementation that will be discussed at the next CPD meeting. The CPD had a robust conversation about the need to provide better support to attorneys but that there is tension about how that support will be funded. A later conversation will need to be around how implementation and monitoring is done. Larry Jefferson shared his vision to secure more funding for support staff for contractors. Larry Jefferson moved to accept the revised standards as drafted, and Maia Vanyo seconded. The Council agreed to continue the conversation and see if there are issues to address. There was a discussion that more conversations are needed with directors, while at the same time there is urgency to resolved. The motion passed with a supermajority, including two judicial abstentions.

Jason shared that he will schedule another meeting to discuss Standard 3 before the February meeting where a vote will take place.

The meeting adjourned at 11:58am