



STATE OF WASHINGTON

## SEX OFFENDER POLICY BOARD

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### SEX OFFENDER POLICY BOARD

#### Legal and Legislative Best Practices Subcommittee

July 21, 2021 2:00pm-3:00pm

Zoom Meeting

Attendees: Terrina Peterson, WASPC; Alex Mayo, WA Voices; Jamie Weimer, WASPC; Joanne Smieja, WA Voices; Laura Merchant, Harborview ATC; Corey McNally, DOC; Megan Allen, KCSARC; Michael O'Connell, WATSA; Paula Reed, CAC of WA; George Yeannakis, OPD; Linda Farmer, Association of Washington Cities; Mary Laskowski, King County Prosecuting Attorney's Office; Emily Hiskes, Snohomish County PDA; Kerry McCarthy, DOC; Thea Mounts, OFM; Jermaine Williams, Freedom Project WA; Jennifer Williams, DOC; Laura Martin, Snohomish PDA; Shawn Sant, Franklin County Prosecuting Attorney; Theo Lewis, DOC

#### Meeting Notes

##### Welcome & Call to Order

- **Thea** and **Terrina** welcomed everyone to the meeting. Meeting participants were asked mute their microphones when not speaking and asked to use the chat function and "Raise your hand" function through Zoom whenever they would like.
- **Thea** reminded people that the meeting was being recorded and the recording is available upon request.
- **Terrina** invited people to introduce themselves

##### **MOTION #21-1-3: MOTION TO APPROVE THE JUNE 16, 2021 MEETING MINUTES**

- **MOVED: Michael O'Connell**
- **SECONDED: Linda Farmer**
- **ABSTAINED: None**
- **PASSED: Unanimously**

## Objective 1 - Review / Discuss draft language and how it impacts Item 2c

- What questions or concerns come to mind as you read the draft language?
  - **Emily, Laura, and George** support the draft language as written. **Theo** does not support the removal of all auto-decline abilities but does support the ability to decline under the discretionary model language.
  - **Shawn** suggests that further discussion is needed to keep juvenile offenders who are 16 or 17 years old who are accused of crimes, including those on the cusp of turning 18 years old.
  - The current draft language excludes options for discretionary review and flexibility in juvenile cases. Having a discretionary review option may be more of a middle-ground approach than excluding any juvenile offense from auto-adult. **Shawn** suggested that there is a need to have that tool available on a case-by-case basis. **Laura** stated that it can be a difference of days or months that caused someone to be auto-decline vs. discretionary decline. The discretionary decline review process gives the court the opportunity to hear from all parties and have more information before determining whether a juvenile should be charged as an adult. It removes the automatic process where we don't have any information about the youth. When there is a decline hearing, there is typically a lot of information about the youth provided to help the court decide, not the prosecutor's office.
  - **Michael** supports looking further into treatment options within the juvenile system and the inclusion of a discretionary decline option but is reluctant to eliminate all decline options.
  - **Shawn** suggested that further discussion about the juvenile sentencing system is needed. Information about additional treatment options could be helpful to add, including treatment options within the juvenile system. If we believe juveniles are best treated by the juvenile system, then it is important to ensure the system can provide treatment, counseling, reeducation, and rehabilitation services. If juveniles who are auto-declined and charged as adults receive treatment under JRA system until age 25, then perhaps we could discuss how the system may support juvenile offenders up to age 25 where certain offenses are committed by older juveniles. Perhaps that is a more middle-ground approach, rather than auto-decline into adult system. The focus could shift on building a robust juvenile system that can support them.
  - **Katie** referenced the discretionary model point of her draft language if the subcommittee is not prepared to remove the auto-decline option. Katie mentioned recent research on the auto-decline option conducted by the Administrative Office of the Courts and other agencies.
  - **Shawn** wondered, if auto-adult is removed altogether, will it then adopt the new standard for clear and convincing evidence that the individual poses a threat of serious bodily harm to another?

- Language is meant to put the decision in the hands of a judge, not a prosecutor.
- **Terrina reiterated** that the focus is on auto-decline for juvenile sex offenses. Could the hearing option be added to the discretionary model language? Remove Rape of a Child 1 from auto-declines so that it would be covered in discretionary hearings?
- **George confirmed** that there is no hearing for auto-decline, it's at the discretion of the prosecutor. Rape of a Child 1 of a 16 or 17-year-old is an offense that qualifies a juvenile for auto-decline. Assault 1 with allegation of sexual motivation would also qualify under current law.
- **Terrina asked** about removing subsection C about Rape of a Child 1 since it is not included in the definition of a serious violent offense.
- **Shawn asked**, under current law, could juveniles who are auto-declined as adults and convicted as adult offenders stay under the juvenile system until their 25<sup>th</sup> birthday or until they turn 26? What is the sentencing structure under the juvenile system?
  - **Michael asked** Shawn if his proposal includes both revisions – 1) have discretionary declines and 2) also recommend legislation to allow juvenile court judges in certain cases (to be determined) to process the case as juvenile adjudication and possibly extend the juvenile's time in the juvenile system? **Shawn agreed** that Michael's summary could be the start to a middle ground that is supported by prosecutors, defenders, and better supports in place for offenders.
  - **Laura asked** why that could not be accomplished in a manifest injustice sentence? If a case is processed in juvenile court, there is an option for an upward departure to adult, if there are facts that support it.
  - **Shawn** was not under the impression that manifest injustice in juvenile court to age 25. The maximum sentence would be to age 21.
    - **George confirmed** that the maximum sentence for that charge is to age 21. Some other charges have a maximum sentence to age 25. Prosecutors do not always have comprehensive information about the youth. George reiterated the potential value of having a judge review and account for the youth's individual factors, rather than just reviewing to determine whether the youth meets the eligibility requirements for auto-decline. This speaks to George's point about proposing all discretionary declines and eliminating the auto-decline. Prosecutors still have the option to ...Currently, there is no hearing for juvenile offenders (i.e., ages 16 or 17) who commit Rape of a Child 1.
    - **Shawn agrees** about the value of a hearing and the youth's information available at that time.

- Further discussion about Rape of a Child being included in the auto-adult decline is needed, along with what offenses are removed from the auto-adult decline. These topics may be a good starting point to identify consensus within the subcommittee.

**Objective 2 - Discuss WordWatch presentation and how it impacts Item 2b**

- **Subcommittee ran out of time to discuss this topic.**
- Brainstorm best practices / recommendations
  - What immediate best practices or recommendations does the subcommittee want to propose?
  - What topics or issues should we know more about before we can propose recommendations? What do we need to know that we don't already know?
  - What information or resources would help you meet the September 16th deadline?

**Wrap-up / Next Steps**

- Subcommittee members should email **Terrina** and **Megan** with any immediate proposals to recommend and discuss. **Terrina** volunteered to work on updating the draft language discussed today, so that the subcommittee can discuss further at the next meeting.
- **Terrina** will work with **Megan** and **Thea** to build a collaborative workspace to make the recommendation development process go smoothly.

**Meeting Adjourned at 3 pm**

**APPROVED AND ADOPTED BY THE LEGAL AND LEGISLATIVE BEST PRACTICES SUBCOMMITTEE**

\_\_\_\_\_/s/\_\_\_\_\_  
 Chair Terrina Peterson

\_\_\_\_\_**8/18/2021**\_\_\_\_\_  
 Date