



STATE OF WASHINGTON

SEX OFFENDER POLICY BOARD

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SEX OFFENDER POLICY BOARD

Legal and Legislative Best Practices Subcommittee

August 18, 2021, 1:30 pm - 3:30 pm

Zoom Meeting

Attendees: Terrina Peterson, WASPC; Alex Mayo, WA Voices; Jamie Weimer, WASPC; Joanne Smieja, WA Voices; Laura Merchant, Harborview ATC; Katie Hurley, King County Public Defense; Megan Allen, KCSARC; Michael O'Connell, WATSA; Paula Reed, CAC of WA; Linda Farmer, Association of Washington Cities; Mary Laskowski, King County Prosecuting Attorney's Office; Emily Hiskes, Snohomish County PDA; Dr. Elena Lopez, DSHS BHA; Jermaine Williams, Freedom Project WA; Jennifer Williams, DOC; George Yeannakis, OPD; Megan Schoor, OFM

Meeting Notes

Welcome & Call to Order

- **Megan** 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.
- **Megan** reminded people that the meeting was being recorded and the recording is available upon request.
- **Terrina** invited people to introduce themselves

MOTION #21-1-4: MOTION TO APPROVE THE July 21, 2021 MEETING MINUTES

- **MOVED:** Emily Hiskes
- **SECONDED:** Joanne Smieja
- **ABSTAINED:** None
- **PASSED:** Unanimously

Objective 1 – Brainstorm Recommendations for Item 2c

- Subcommittee members reviewed the six ideas / draft language proposed to address Item 2 c. **Terrina** observed that aside from Idea #1, the other ideas are very similar to each other. Ideas #3 and #4 were Terrina’s attempt at coming up with some language that speaks to Idea #2. Perhaps items #4 and #6 could be combined.
 - **Michael** wonders if there is statutory language that directs the judges on what standards to use for discretionary declines. What statutes apply here?
 - [RCW 13.40.110](#) relates to all discretionary decline hearings, while the subcommittee is only asked to look at sex offenses. **Katie** shared the RCW link and mentioned that the RCW discusses having a decline hearing and the findings, but the factors currently used by the courts are the [Kent Criteria for Judicial Decline Hearings](#) based on case law from the 1970s. This is partly why she suggested the idea of new standards for discretionary hearings. A WSIPP report recently came out that analyzes AOC data and the disproportionality in auto-decline hearings.
 - **Terrina** said the subcommittee could recommend adding language to the RCW, but it may be out of scope since the RCW is broader than sex offense. **Jamie** shared that the RCW could be updated but, it would become more complicated by defining which sex crimes would be handled differently.
- One suggestion raised is to, Remove all sex offenses included in [RCW 13.04.030](#) auto-decline statute and instead have them included in discretionary hearings under RCW 13.40.110.
- **Megan** proposed leaving Rape of a Child 1 in auto-decline and remove the rest of the sex offenses. That is one sex offense that Megan is concerned with taking out.
- **Terrina** asked, would a prosecutor have a difficult time convincing a judge to decline that type of case?
- **Michael** shared that including Rape of a Child 1 in discretionary decline does not eliminate the possibility of a decline. Prosecutors would still be able to make the argument that the juvenile should be declined and charged as an adult. **George** added that before a judge can decline a youth, they must present 6-8 findings about why the youth should be declined, such as seriousness of offense, amenability to treatment, whether offense was group-based, etc. Judges must have a basis for their argument and demonstrate their findings based on a set of criteria, not just based on one reason.
- **Megan** wondered, if all these sex offenses become discretionary, then how do we ensure that the system will work efficiently to address these cases in a timely manner?
- **Alex** asked, What would the timeline be for removing auto-decline altogether? How would that impact the courts? **Megan** shared that it would remove a legal proceeding, but many factors have to be weighed in to consider removing auto-decline altogether.
- **Michael** asked, How much does the discretionary decline currently slow down the administration of justice? **Katie** shared that the exact amount of time is unknown and

may be case-dependent. To the extent that we can, it may be worth adding language about timeliness. Any time there is a young person involved in adult court, case processing times may be lengthier. **Emily** also mentioned that current delays in the court system are not representative of how the system typically functions. If we work to remove all sex offenses from auto-decline, then things may work a lot faster. She supports the discretionary step of a judge evaluate the case.

- Another suggestion raised is to, Ask the Legislature to review the evidentiary standards for [RCW 13.40.110](#) but not make specific recommendations about the standards since it is out-of-scope for this assignment.
- Another suggestion raised is to, Ask Legislature to request WSIPP to conduct a study on discretionary declines in Washington.
- **Katie** suggested that the subcommittee recommendations should capture existing research on the ineffectiveness of decline. **Michael** agrees that the recommendations should capture the positive and negative effects of declines.

BREAK

- A Doodle poll was taken to better understand the direction that members support. A majority of subcommittee members present voted to remove all sex offenses from auto-decline but make them available for discretionary decline. Members who are not present at this meeting will still have an opportunity to vote through another poll that will be distributed before the next meeting. **Terrina** asked members to propose some actual policy language and detailed RCW changes to recommend to the Legislature, based on the ideas supported by the subcommittee.

Objective 2 – Brainstorm Recommendations for Item 2b

- **Terrina** shared that renaming all sex offenses and/or creating an entire chapter for juvenile sex offenses is not in our scope. She suggests creating a clarifying condition about crimes committed as a juvenile to add to the existing RCW, rather than try to rename every single offense and/or create a new RCW subsection specifically for juvenile sex offenses. E.g., Rape of a Child, Child molestation, etc.
- **Paula** shared that “juvenile sex offender” may not be the best term to use. **Michael** also reminded the group about person-first language and the potential impact it has on behavior and engagement.
- **Katie** provided some historical context around the subcommittee assignment to propose naming conventions for youth sex offenses. If the subcommittee is not receptive to terminology like Problematic Sexual Behavior, there are also terms like Illegal Sexual Behavior that have been used by subject matter experts like Dr. Jane Silovsky. Separate wording / subsections could be added to clarify offenses committed by minors, if the person was under 18 years old when the offense was committed. Perhaps we can further discuss Rape of a Child offenses, the naming of those offenses, and whether new offenses should be created that are specific to juveniles.

- **Paula** supports Katie’s perspective and also suggests that the subcommittee explore using person-first language to describe these offenses for children under and over age 12. Could a small group of people work on that?
- **Megan** also mentioned that we should still discuss Mary Laskowski’s presentation as a group. The general purpose of her presentation was how all language is important. Language should be descriptive, accountable, and specific. There are many connotations in the current language that can be problematic, like the wording of Statutory Rape may imply consent and minimize the act that was committed.
- **Dr. Lopez** suggests that we focus on what sex offenses we adamantly want to change the language relating to those offenses, determine which offenses need clarifying wording (i.e., ‘by a minor’), and in the recommendation highlight the approach that the legislature could take to rename any additional offenses. Ultimately, the subcommittee could recommend that the Legislature explore the naming of offenses from a person-first perspective.

Objective 3 – Outline Subcommittee Information Needs and SharePoint Resources

- The [National Center on Sexual Behavior of Youth](#) has some helpful resources to review and consider. **Paula** will also organize a discussion with a subject matter expert on Problematic Sexual Behavior/terminology and share the information with the group.
- **Jamie** wondered, are there other statutes for crimes like theft that has language specific for offenses committed as juveniles? Could these statutes inform the direction of the subcommittee’s recommendations?
- **Megan** asks, what crimes would potentially need renaming? If members have specific ideas, please add them to the Recommendation Ideas document on the SharePoint site. **George** clarified that language describing sex offense crimes that involve an age difference may be worth exploring further (i.e., Rape of a Child, Child Molestation, etc.).

Next Steps

- The September 15th meeting will be extended from 60 minutes to 90 minutes, since the deadline to submit recommendations is September 24th.

Meeting Adjourned at 3:30 pm

APPROVED AND ADOPTED BY THE LEGAL AND LEGISLATIVE BEST PRACTICES SUBCOMMITTEE

_____/s/_____

Chair Terrina Peterson

___9/1/2021_____

Date