



STATE OF WASHINGTON

SEX OFFENDER POLICY BOARD

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SEX OFFENDER POLICY BOARD

Legal and Legislative Best Practices Subcommittee

September 1, 2021, 1:30 pm - 3:30 pm

Zoom Meeting

Attendees: Terrina Peterson, WASPC; Alex Mayo, WA Voices; Shawn Sant, WAPA; Jamie Weimer, WASPC; Jeff Patnode, ISRB; Joanne Smieja, WA Voices; Katie Hurley, King County Public Defense; Megan Allen, KCSARC; Michael O'Connell, WATSA; Paula Reed, CAC of WA; Sonja Hardenbrook, Snohomish County Public Defender's Association; Mary Laskowski, Children's Justice Center of King County; Corey McNally, DOC; Emily Hiskes, Snohomish County PDA; Jennifer Williams, DOC; Theodore Lewis, DOC; George Yeannakis, OPD; Megan Schoor, OFM; Whitney Hunt, 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 #21-1-5: MOTION TO APPROVE THE August 18, 2021 MEETING MINUTES

- **MOVED:** Michael O'Connell
- **SECONDED:** Joanne Smieja
- **ABSTAINED:** Sonja Hardenbrook; Corey McNally; Shawn Sant
- **PASSED:** Unanimously

Objective 1 – Brainstorm Recommendations for Item 2c

- **Shawn Sant** stated he was most concerned about the more serious offenses such as: Rape 1 and Rape 2 being removed from juvenile system.
- **Michael O’Connell** asked, is there a difference between auto-decline and discretionary decline in terms of amount of time under jurisdiction?
- **Shawn Sant** is proposing the addition of sex offenses Rape 1 and Rape 2 to [RCW 13.40.300](#). This idea does not eliminate the discretionary decline. The primary interest is ensuring that services are available to a juvenile. It gives prosecutors greater options to keep the juvenile in the juvenile system, and ultimately there may be less need for discretionary decline hearings.
- **Megan Schoor** asked if the subcommittee is proposing to expand the age limit, would this also require us to ask for additional funding for JRA?
 - **Shawn** responded saying that fiscal impact should be the same unless there’s a greater cost to house individuals at the JRA.
 - **Terrina** stated that it’s not something the committee has to solve now, as we’re not doing any fiscal analysis.
- **Jeff** stated that the cost differences in daily bed rates are significant: Approximately \$100 at DOC, compared to \$250 at JRA.
- **Jamie** asked if it made sense to amend [RCW 13.40.300](#) or should the amendment come to RCW 13.40.0357?
- **Terrina** asked if the offense category in [RCW 13.40.0357](#) would change offender scores? Are there concerns with changing the offense category?
 - **Emily Hiskes** said yes, but if you change the juvenile offense categories then it changes the sentencing grid, which outlines how much time they serve as a juvenile.
 - **Shawn** stated that on the adult side it’s based on the category of the offense itself. The grid is based on the juvenile side.
- **Michael** asked if we don’t change the sentencing grid, how do we create an option to extend jurisdiction to the age of 25?
 - **Shawn** thought that perhaps adding Rape 1 and 2 as an A++ is an option.
 - **Michael** recommended these details need to be worked out by the attorneys for further discussion at the next subcommittee meeting.
 - **Shawn, George, and Katie**, will connect offline to prepare more detailed language to share at the next subcommittee meeting.
 - **Jamie** also suggests looking at section (ii) regarding firearms.
- **Alex** asked, what is the biggest barrier to removing decline altogether? This is a very important issue for BIPOC communities that he works with.
 - **Shawn** stated the biggest issue would be if they weren’t able to resolve it by the time the person was at the age of 23, under the old rules, that would’ve been what they wanted to see.

- **Alex** asked, what if decline was removed for first time offenders and kept it as an option for repeat offenders?
 - **Shawn** asked if **Alex** was seeing a disparaging impact of discretionary decline cases regarding Rape 1 and 2 in King County?
 - **Terrina** believes the number of discretionary decline cases was 9 in the entire state in 2019. Not sure if any were repeat offenders.

Objective 2 – Brainstorm Recommendations for Item 2b

- **Paula Reed** asked if that if the language used “Child, Minor, Adolescent,” meant anyone under the age of 18? Should there be discussion about using a different term other than “Sex Offender” for these individuals?
 - **Terrina** responded saying the Treatment subcommittee is already talking about the issue/topic. Currently there is no definition in the existing RCW’s for the term “Sex Offender.” [RCW 9A.44.128](#) includes definitions specific to registration.
- **Emily Hiskes** confirmed that there is no distinct definition that outlines a juvenile sex offender and an adult sex offender. Emily wanted to clarify that the Top Priority proposal in SharePoint that states: “Create new section wording that clarifies that crime was committed as a minor,” means that proposal is to add something to each statute so that when someone is looking at an offense, it shows that individual committed that offense before the age of 18?
 - **Terrina** confirmed, yes, to provide clarifying language so that if/when criminal history is run in the future, it is clear when a crime was committed as a minor.
- **Paula** wondered if it was possible to create a definition for “juvenile sex offender”?
 - **Megan** asked if there was a consensus of which term to use: child, juvenile, minor, etc.
 - **Shawn** agreed this is a good question to discuss, and this can determine how some cases are treated or handled.
 - **Terrina** referred to the chat that the consensus is to change that to “juvenile.”
- **Terrina** asked for discussion about the idea added in chat regarding renaming ROC for when it is between consenting minors also, along with adding “committed as a minor.”
 - **Emily** referenced ROC 2 as an example that often involves kids who are close in age and in a relationship and it’s still a chargeable problematic sex offense. **Emily** would like discussion on either renaming ROC 2 or keeping ROC 2 and have an alternative charge for when the facts reflect that it was a problematic sexual relationship, but it was not as harsh as Rape of a Child.
 - **Terrina** clarified, is this referring to a relationship between a 12- and 15-year-old?
 - **Emily** confirmed, yes.
 - **Michael** stated that the term Rape of a Child creates confusion because it implies overcoming resistance and use of force.
 - **Megan Allen, Jeff, and Shawn** generally agreed with **Michael’s** assessment about the imbalance of power involved in these offenses. **Shawn** mentioned that

characterizing when an offense was committed by a juvenile and age of consent are important details to consider.

- **Michael** stated that the confusion of the term “Rape of a Child” goes beyond the public. It is often heard as “Rape.” **Jeff** agrees that a clearer distinction between “Rape” and “Rape of a Child” does make sense.
- **Megan Schoor** asked if there were group members that would be interested in discussing and submitting proposed terminology in time for the next meeting on September 15th?
 - **Terrina** asked **Emily** to think through this topic some more and add her thoughts/proposals to the Recommendations document in SharePoint for further discussion.
- **Terrina** proposed that after **Paula’s** webinar, those ideas could be added to the SharePoint document for discussion.
- **Jaime** and **Terrina** asked that any ideas proposed be accompanied with the RCWs that would be impacted. **All proposals must be submitted by September 13.**

Information / Resource Needs?

- **Megan Allen** stated that she hasn’t heard any information come out of the research into how other states do things. Are there any other states making changes?
 - **Paula, Michael, and Megan Schoor** will explore this topic further.
 - **Megan Allen** will share additional resources about the adultification of juveniles.

Next Steps

- **Terrina** clarified that **Shawn, George, and Katie** will prepare proposed language to amend RCW 13.40.300. **Terrina, Jamie, and Paula** will get together after the person-first language webinar and prepare some information to share at the next meeting.

For the Good of the Order

- **Megan** stated that **Whitney Hunt** is being included going forward and she will be supporting her through the month of September.

Meeting Adjourned at 3:30 pm

APPROVED AND ADOPTED BY THE LEGAL AND LEGISLATIVE BEST PRACTICES
SUBCOMMITTEE

_____/s/_____

Chair Terrina Peterson

_____/9/15/21_____

Date