



STATE OF WASHINGTON

SEX OFFENDER POLICY BOARD

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SEX OFFENDER POLICY BOARD

Legal and Legislative Best Practices Subcommittee

September 22, 2021, 1:30 pm - 3:00 pm

Zoom Meeting

Attendees: 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; Dr. Michael O'Connell, WATSA; Paula Reed, CAC of WA; Sonja Hardenbrook, Snohomish County PDA; Mary Laskowski, Children's Justice Center of King County; Corey McNally, DOC; Emily Hiskes, Snohomish County PDA; Jennifer Williams, DOC; Theodore Lewis, DOC; Linda Farmer, AWC; Kerry McCarthy, DOC; George Yeannakis, OPD; Dr. Elena Lopez, BHA; Megan Schoor, OFM; Whitney Hunt, OFM

Meeting Notes

Welcome & Call to Order

- **Jamie and Megan S.** welcomed everyone to the meeting. Meeting participants were asked to 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.
- **Jamie** invited people to introduce themselves in the chat.

Reach Consensus on Proposed Recommendations

- **Small Group Report-outs on Item 2c**
 - **Katie** began the report-out by giving an overview of the group's goals for consensus on recommendations.
 - **Shawn** stated they've done a lot of good work so far trying to get consensus. The issue with pulling auto decline for kids 16 to 17-years-old being one of the tougher pieces to reach consensus on.

- **Jamie** asked to clarify that they've reached agreement on removing rape 1 and rape 2 from auto decline to discretionary decline and, to also move ROC 1 from auto decline to discretionary decline?
 - **Katie** stated she's proposing to have them removed from auto decline.
 - **Shawn** added that some concerns about this with WAPA is that there would still need to be some sort of conditional sentence that gets into the "approaching 21-years-old" range. He added that he thinks discretionary decline is the better method.
 - **Jamie** asked if it was intentional to word point No.2 in the recommendations as "remove ROC 1 from auto" or, is the plan to move it to discretionary?
 - **Katie** stated she's hoping that wording is what the recommendation will be. She's not proposing any changes to subsection B.
- **Dr. O'Connell** asked for a straight answer: should we move ROC 1 from auto to discretionary? He added it seems like **Katie** is for it and **Shawn** is as well with some caveats.
 - **Katie** confirmed she is in full support of removing it from auto decline but is in agreement with approaching it the same way as **Shawn** when taking into account how this played out in 2018 when trying to remove ROC 1 from auto decline.
- **Jamie** asked if something is not specifically articulated in the discretionary decline statute, is it still eligible for discretionary decline?
 - **Katie** responded no.
- **Jamie** stated the group needs to decide whether to move ROC 1 from auto to discretionary decline or, just remove it from auto.
 - **Whitney** suggested having members submit their answers in the chat.
 - **Jamie** agreed.
- **Sonja** asked if there was a rationale for removing ROC 1 from auto decline.
 - **Megan Allen** stated even among the charges there's some much variance in the cases.
 - **Katie** stated that decline has been heavily studied and it's never shown that prosecuting kids in adult court protects community safety. In fact, it's been found to have the opposite effect in making things worse for community safety by keeping kids incarcerated for longer periods of time. There are also great racial disparities as demonstrated by a recent report from Dr. Evans in their 2009-2019 study.
 - **Shawn** added that simply removing ROC 1 from auto decline is too broad. He, and other prosecutors, would want to see discretionary decline as another option.
- With this additional information and input, **Jamie** asked members to submit their votes in the chat for either moving ROC 1 to discretionary decline or, removing it from auto decline.
 - Votes in the chat were counted as follows: Add 9, Remove 7.

- **Katie** shared that she was troubled to see the group voting on this prior to fully going through and discussing all of the literature and evidence on disproportionality impacts these decisions have.
 - **Dr. O’Connell** stated that is a legitimate point and we should include this in our report to the SOPB as well as there was a lack of time to explore this further.
 - **Shawn** clarified that, under certain circumstances, if we removed the discretionary modification from ROC 1, it would still be subject if certain criteria were met?
 - **Katie** confirmed yes, some conditions would still apply.
- **Jeff** asked **Katie** if WAPA would be okay with ROC 1 being pulled from auto decline altogether.
 - **Katie** responded that her understanding was back in 2018 there had been an agreement to do this.
 - **Jeff** replied if that is the case he would be persuaded to change his vote to drop ROC 1 from auto decline altogether.
 - **Shawn** is reaching out to others within WAPA for clarification on this matter.
- After hearing this new information and discussion, **Jamie** asked the group if anyone would like to change their vote.
- **Megan Allen** stated the research gives her more questions because it only states there were 34 auto adult cases in 10 years for sex offenses and it doesn’t provide a breakdown of what they were.
- The updated votes are as follows: Add 9, Remove 8.
 - **Jamie** then stated the final decision will be brought to the SOPB for a vote.
- **Jamie** then addressed recommendation No.3, Raising the Jurisdiction from 21 to 25 for rape 1 and rape 2, asking **Shawn** and **Katie** if they could reach a consensus on this by Thursday, September 23, 2021.
 - **Shawn** stated the biggest barrier is not being able to go beyond 21 unless there was a firearm involved. He then asked Katie if removing that barrier would be a possibility.
 - **Katie** responded that, based on other SOPB committee discussions, her understanding was that is the direction others are leaning.
- **Jeff** recommended if we’re going to present to the SOPB the impacts of ROC 1 we need to provide more data.
- **Linda** added that since we seem split on this, the board is going to need as much information as possible to explain the why.
- **Jamie** asked the group if we’re in agreement on recommendation No.2 with the new/adjusted language.
 - There were no objections or additional comments given.
- **Jamie** then shifted the discussion to recommendation No.4, Disposition category for rape 1 and rape 2 for 16 and 17-years-old.

- **Jamie** asked **Shawn** and **Katie** to clarify if this was about the conversation on A++ in a sentencing grid.
 - **Katie** responded yes but we don't have an agreement on what the range should look like.
 - **Shawn** suggested we needed a separate group analysis of this issue.
 - **George** agreed.
 - **Jamie** asked if we recommended referring No.4 and No.5 to the Sentencing Guidelines Commission for further analysis, would that impact WAPAs agreement for moving rape 1, rape 2, and ROC 1 from auto decline to discretionary decline.
 - **Shawn** responded saying this was not a majority WAPA vote but there are many that agree with him on having an expanded sentencing range for removing the auto decline.
 - **Jamie** asked for more input from members that serve on the SOPB on whether it was possible to make this recommendation with a specific prescribed method of implementing these recommendations.
 - **Jeff** stated the SOPB hasn't worked in such a specific way in the past but it's possible.
 - **Dr. O'Connell** agreed and added that this group should just add as much information as we can as to why and how we've reached these findings and then let the SOPB reach a decision.
 - **Linda** agreed.
 - **Jamie** decided to end the conversation here and move discussion over to report-outs for Item 2b.
- **Small Group Report-outs on Item 2b**
 - The group started discussions on adding clarifying language to describing and naming youth sex offenses.
 - **Dr. O'Connell** stated this was his suggestion but is open to hearing input.
 - **Jamie** stated there was a general consensus for having this recommendation but there was some concern on how we would accomplish it.
 - **Jeff** stated he would defer to the legal people in the group as this comes down to constructing statutes.
 - **Linda** stated it seems to make sense but the rational doesn't speak to any benefits. Does it help solve a problem? And if so, what is the problem?
 - **Jamie** shifted the conversation over to item No.7.
 - **Katie** referred to her findings that were shared with the group in a word document. She added that there are two pieces to this: one is looking at the broader elements of the Juvenile Justice Act and the ranges that apply to them. The other is amending RWC 13.50.260 which is the ceiling statute.
 - **Shawn** suggested in chat, "maybe limit to felony harassment standard?"
 - **Katie** said the thing she struggles with about this is it still allows them to be charged in adult court.

- **Shawn** responded saying that is a valid point and makes sense and brings up some good policy considerations.
- **Megan Allen** stated that there needs to be a review of this statute as these cases are so new. She suggests just making the recommendation be a need for review of these cases.
- **Jamie** asked if there were any objections to move forward with **Megan Allen's** suggestion to review No.7 further.
 - No objections were given.
- The group moved discussions over to WISSPs study idea #1 and, using person-first language.
- **Dr. Lopez** asked **Jamie** to clarify that we're asking to use this person-first language going forward. How and why is this being implemented?
 - **Whitney** added that there is consensus in all three subcommittees to switch to the use of person-first language as an overall culture shift in writings and recommendations.

Next Steps

- Submit final recommendations to **Whitney** by 1 pm on Friday, September 24, 2021.

For the Good of the Order

- Nothing to add.

Meeting Adjourned at 3:00 pm

APPROVED AND ADOPTED BY THE LEGAL AND LEGISLATIVE BEST PRACTICES SUBCOMMITTEE

_____/s/_____
Chair Terrina Peterson

_____2/25/22_____
Date