

**Staff Memorandum 2022-08**  
**Draft Minutes of May 17, 2022 Meeting**

The Committee on Revision of the Penal Code held a meeting on May 17, 2022. Draft Minutes for that meeting are attached for Committee members to review.

The draft will be deemed final after it is approved by a vote of the Committee. When voting, the Committee may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

Respectfully submitted,

Joy F. Haviland  
Senior Staff Counsel

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***DRAFT*** MINUTES OF MEETING  
COMMITTEE ON REVISION OF THE PENAL CODE  
May 17, 2022

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A meeting of the Committee on Revision of the Penal Code was held on May 17, 2022. Consistent with the Bagley-Keene Open Meeting Act, the meeting was held at the California State Library, Stanley Mosk Library & Courts Building, 914 Capitol Mall, Sacramento, CA. The meeting was also made available as an online video webinar.

**Committee:**

*Present:* Michael Romano, Chairperson  
Hon. Peter Espinoza, Ret.  
Hon. Thelton Henderson, Ret.  
Assembly Member Alex Lee  
Hon. Carlos Moreno, Ret.  
Senator Nancy Skinner

**Staff:**

*Present:* Brian Hebert, Executive Director  
Thomas M. Nosewicz, Legal Director  
Joy F. Haviland, Senior Staff Counsel  
Rick Owen, Senior Staff Counsel

**Invited Presenters:**

- Dr. Katherine Warburton, Medical Director, California Department of State Hospitals
- Judge Steven Leifman, Associate Administrative Judge, Miami-Dade County Court
- Judge Thomas M. Anderson, Nevada County Superior Court
- Professor Daniel Murrie, University of Virginia's Institute of Law, Psychiatry, and Public Policy
- Professor Neil Gowensmith, University of Denver's Forensic Institute for Research, Service, and Training

- Theresa Pasquini, co-author of Housing That Heals
- Judge James N. Bianco, Los Angeles County Superior Court
- Stephanie Regular, Chair of California Public Defender Association's Mental Health and Civil Commitment Committee
- Kim Pederson, Senior Attorney, Disability Rights California
- Matthew Greco, Deputy District Attorney, San Diego County

**Other Persons:**

Up to 51 members of the public observed the meeting as attendees. The Committee did not prepare a list of those attendees.

**Approval of Actions Taken**

Unless otherwise indicated, the Committee decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted below.

**New Business**

The Committee considered Memorandum 2022-04 and its first supplement, which discuss competency to stand trial. The Committee received a special presentation from the Medical Director of the Department of State Hospitals, Dr. Katherine Warburton.

The Committee also heard from panelists on the following topics:

- Approaches to Competency to Stand Trial and Related Matters From Other States and Systems (Judge Leifman, Judge Anderson, Theresa Pasquini, Professor Murrie, and Professor Gowensmith)
- Perspectives on Competency to Stand Trial and Related Matters from California Practitioners (Judge Bianco, Stephanie Regular, Kim Pederson, and Matthew Greco)

The Committee is grateful for the participation of all of the panelists.

The Committee also heard public comment.

The Committee discussed the data presented by Dr. Warburton and the ideas presented by the panelists. After discussion, the Committee directed staff to research the following topics:

- *Eliminating restoration for more cases:* Expanding the scope of SB 317, which eliminated competency restoration for misdemeanors, to certain classes of felonies, particularly those offenses that contribute to a majority of competency restoration admissions at the Department of State Hospitals (i.e. theft, assault, and robbery).
- *Allow judges to declare certain individuals unrestorable at the outset:* Creating a mechanism for judges to determine in rare cases that a person cannot be restored without the process of committing them to a state hospital.
- *Statutory timeframes:* Creating a statutory timeline that would mandate the return of competency evaluations in a shorter timeframe and creating a fasttrack for people found incompetent to stand trial that are most in need of treatment.
- *Landscape of court ordered mental health treatment:* Mapping the various ways a person may be judicially ordered into mental health treatment – e.g. competency to stand trial, conservatorship, assisted outpatient treatment, etc.
- *High-utilizers of competency restoration:* Requiring or encouraging counties to identify the high-utilizers of county and other services that may be related to involvement in the criminal legal system.

### **Ongoing Business**

Following a presentation by the Legal Director, the Committee discussed research updates and proposals from the February 2022 meeting on victims' rights and services. After discussion, the Committee directed staff to continue developing the following three proposals as outlined in Memorandum 2022-06:

- Create a system for state-funded restitution payments to victims;
- Create a victims' right to restorative justice; and
- Modernize civil compromise.

### **Administrative Matters**

The Committee considered Memorandum 2022-05 presenting draft Minutes for the Committee's February 2022 meeting.