

GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL

Minutes of a Regular Meeting

July 8, 2005

10:00 AM

The regular meeting of the Georgia Public Defender Standards Council (Standards Council), an independent state agency within the judicial branch, was held on Friday, July 8, 2005, at the office of the Standards Council, 104 Marietta Street, Suite 200, Atlanta, GA 30303.

Council members present were Emmet Bondurant (Chairperson), Wilson DuBose (Co-chair), Natasha Perdew Silas [arrived later], Gerald Word, Hon. Michael Hancock, Hon. Willie Lockette, Paul Kurtz, and David Dunn (Lookout Mountain).

Staff members present were Michael Mears (Director), Sarah Haskin (Deputy Director), Susan Teaster (Acting Chief Legal Officer), Paul Kehir (Deputy Director), Chris Adams (Capital Defender), Trish McCann, Robin Fisher, and Christie Crane.

Guests included Hon. Melodie Clayton (Council of State Court Judges), Noah Anderson (House Budget Office), Sara Totonchi (Southern Center for Human Rights), and Circuit Public Defenders Lee Robinson (Macon), Arthur English (Griffin), and Brett Ladd (Blue Ridge).

I. CALL TO ORDER

Chairman Bondurant called the meeting to order at 10:00 AM after a quorum was declared. He welcomed David Dunn who has been appointed the new Secretary for the Council.

II. APPROVAL OF MINUTES

A motion was made to approve the minutes from the last Standards Council meeting held on May 27, 2005. The motion was seconded and adopted.

III. PUBLIC COMMENTS

There were no public comments.

IV. ACTION/VOTING ITEMS

a. **Spangenberg Group Contract.** Director Mears presented the addendum to the contract for renewal. Deputy Director Haskin already has funds for the contract encumbered and approval from Sen. Hamrick of the Legislative Oversight Committee. Motion to approve the new Spangenberg Group contract was made and said motion was passed.

b. **Standards Council Grievance Procedure.** Director Mears presented the grievance procedure, modeled on the State Merit System policies. The Standard will create a uniform procedure for dealing with employee concerns. Director

Mears stated that the procedure is designed to prevent lawsuits and EEOC complaints and he would like for the Council to put something into place soon. The matter was tabled until the September meeting.

Chair Bondurant recognized Natasha P. Silas' work on the Council.

V. DIRECTOR'S REPORT

a. Director Mears gave an update on the meeting with Judge Manis about the Atlanta Circuit Defender office. The biggest issues are the inability of the office to fill positions and to meet the 72 hour requirement. Director Mears, Deputy Director Haskin and Acting Chief Legal Officer Teaster have been working to resolve the problems. Circuit Public Defender Vernon Pitts has stated that the state salaries are insufficient to attract qualified candidates. As of July 1st, two attorneys were hired and placed in the Atlanta Conflicts office. By doing this, the immediate needs of the judges were addressed. Vernon Pitts has also filled several of his open positions.

The Agreement with the judges is for them to appoint 10 cases to the conflicts office. The judges understand that they are not to appoint counsel.

Mears stated that the Atlanta Circuit defenders refused to take cases because they would exceed their caseload limits. The judge would then appoint conflict counsel. It was pointed out that the number used by the Atlanta Circuit defenders was not a number generated or required by the Council. However, the additional attorneys will help with the caseload issue. Co-chair Dubose asked whether county was maintaining same level of funding that they had prior to January 1, 2005. Chair Bondurant stated that the number of Fulton County cases and number of attorneys Pitts will have will stay within ABA guidelines. Vernon Pitts picked arbitrary number of 65 which costs the Council because those cases were being treated as conflict cases. Bondurant mentioned that he is on another committee that is looking into the Fulton County Justice System. Vernon Pitts is not following the standards, collecting fees or using standard appointment forms. Also, Vernon Pitts has collected no application fees and it is now the middle of the year. Bondurant stated that the Atlanta Circuit needs major reorganizing and supervisory monitoring by Council.

The issue arose as to whether the discussion was one of personnel and should be had in executive session. The Chair stated that this issue is a compliance issue and was therefore a public matter. He stated that the problems in the Atlanta Circuit were well known.

The Council has given Fulton County \$300,000. Director Mears stated that the judges and Fulton County administrators were pleased to receive the money. He explained the procedure for dealing with pipeline cases. Mears reiterated that

when the Council discussions involve monetary matters, those discussions will be conducted in the regular open meeting.

Deputy Director Haskin stated that the council treated Fulton County as an opt-out circuit for first 6 months and gave them money accordingly. Chair Bondurant stated that it's an ongoing problem. A lot of effort by the Council will be required. Co-chair DuBose stated that the Council will work with Pitts to integrate new hires as soon as possible. Director Mears stated that the staff has been establishing a new conflicts procedure with Fulton County.

Director Mears announced that Steve Nevels, former Fulton County Deputy Court Administrator, has been hired as the conflict case manager for Northeastern Circuit. Nolan Martin, former 8th District court administrator, has been hired as conflict case manager for the Circuits in the 8th Judicial District (Middle, Dublin, Cordele and Ocmulgee.) Both gentlemen have experience in negotiating intergovernmental contract issues. There are now 6 full time conflict offices.

Director Mears also discussed the council's authority to advertise for position of Mental Health Advocate. He has prepared a job description that can be posted in the appropriate legal organs for the next 30 days. Motion was made and approved to advertise position.

VI. OTHER REPORTS

a. **Overview of Conflict Defender Offices.** Deputy Director Kehir gave a power point presentation on the conflict system. He also discussed the expert witness procedure. If the request is less than \$500 it is processed by the circuit public defender. If the fee request is over \$500 it is processed by Kehir. Circuit Public Defender Robinson stated that as his circuit's hybrid system phases out, there will be more conflicts, and there could be significant budgetary concerns.

b. **Legislative Oversight Committee Materials.** Deputy Director Haskin gave an overview of the presentation to the Legislative Oversight Committee. A question arose as to whether the counties have considered pipeline cases in doing their budget. Some counties did not budget for them. Council member Word stated that the circuit public defenders absorbed some of the cases which were early in the pipeline. The pipeline cases are going to continue; it is estimated that it will be as many as 5 years before all pipeline cases are concluded.

Council member Lockette stated that the staff should also point out where the circuit public defender offices have saved counties or circuits money. Dunn stated that he has compared what the county would have paid per case versus what it is paying his office. The county can see that it is saving money.

Director Mears proposed that Pierce, Wilkinson and Dekalb counties be selected for the jail pilot program. These counties represent small, medium and large size counties. It was decided to use Muscogee instead of Dekalb, because Muscogee did not have a system prior to the act and all other large counties which did not previously have a system are currently under a hybrid system.

The question arose as to what number the projects should use in formulating the data. Chairman Bondurant suggested average jail days. Council member Word suggested using the average number of days between arrest and release. Circuit Public Defender English pointed out that the jail is reporting one set of numbers to the county and another to the State. Council member Lockette wondered how much those numbers will really show. Haskin stated that they will discuss this issue at the circuit public defender meeting and will report to the Council.

Deputy Director Haskin then talked about the funds collected so far. She will research how the Superior Court Clerks Cooperative Authority handles interest. Haskin pointed out that since the indigent defense fund is number 5 on the priority list for partial payments, the projections show a shortfall. The Legislative Oversight Committee will be made aware of this.

There were several suggestions as to how to increase the fund, including an increase to the civil filing fee, no cap on the IOLTA funds received by GPDSC and moving the agency up on the distribution list. Deputy Director Haskin stated that one problem was blanket waivers of the \$50.00 application fee. Director Mears pointed out that the fee was statutory and there must be a finding of indigency, therefore there should be no blanket waivers of the fee.

Council member Word would like to illustrate to the Legislative Oversight Committee the process of calculating caseloads. By September, the Council will have 3 or 4 months of reliable data.

c. **Discussion on JCATS system.** The Council discussed the issues with regard to all circuits using the system. It is imperative that all circuits use the JCATS system. The information gathered by JCATS is important, in that it gives the Council real data to use when speaking with the legislature about the statewide public defender system. Additionally, the Council has invested a lot of money in the JCATS system and although there are still some improvements to be made there is too much to be gained for defenders to not input data now. The Circuit Public Defender Association will convey to its members the expectations of the Council. Council member Dunn will be the liaison.

d. **Opt out.** Director Mears informed the Council that Cherokee County and Clayton County have not filed formal requests to opt out. Circuit Public Defender Ladd asked about the opt out procedure and the Council approved a schedule for processing requests.

The Council went into Executive Session to discuss personnel matters.

FUTURE MEETINGS

The next Council meeting will be Friday, September 16, 2005 at 10:00 AM.

These minutes are respectfully submitted this 8th day of July, 2005, and adopted this 16th day of September, 2005.

Secretary