

# GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL

## Minutes of Specially Called Meeting

February 2, 2009

*\*\*Official Transcript attached to Minutes*

The regular meeting of the Georgia Public Defender Standards Council was held on February 2, 2009 at the GPDSC main office in Atlanta, Georgia.

Council members present were C. Wilson DuBose (Chairman), Stephen Tillman (Vice-Chairman), David Dunn (Secretary), Jerry Word, Wyc Orr, Lee Morris, Judge Mark Anthony Scott, Ron Cross, Mike Berg, Tony Thaw, Don Oliver, Melvin Davis.

### CALL TO ORDER

Council Chairman C. Wilson DuBose declared a quorum and called the meeting to order at 10:00 a.m.

### ACTION ITEMS

#### GPDSC FY2009 Amended Budget Request

Chairman DuBose asked Sarah Haskin to summarize the proposed request for the FY2009 Amended Budget. Haskin summarized the 2 program areas where the staff was projecting budget shortfalls:

Program 1: The Georgia Capital Defender - \$602,383

Program 2: Non-capital conflicts – \$678,000, **amended to \$822,000 per council action below.**

**Total Request: \$1,424,383 (as amended)**

Don Oliver made a motion to raise the non capital conflict percentages (for bills projected by staff to be outstanding) from 50% to 74% of the anticipated conflict bills. Jerry Word seconded the motion. Chairman DuBose made a motion to amend to 80% of the estimated bills, Mike Berg seconded the motion. Motion passed unanimously.

Don Oliver then made the motion to approve the FY2009 Amended Budget request, Jerry Word seconded the motion. Motion passed unanimously.

#### GPDSC FY2010 Budget Request

Council Staff presented the FY2010 Budget, as requested by the Council at the January 23, 2009 meeting (full copy of FY2010 Budget as approved by Council is available).

After going through the proposed budget, Wyc Orr made a motion to amend the budget to request a contingency of 3% of the Council's budget NTE (not to exceed) \$500,000. Judge Scott seconded the motion, motion failed.

Judge Scott made a motion that language be inserted in the form of a footnote to the Georgia Capital Defender portion of the budget as follows:

\*The amount requested for the Georgia Capital Defender budget could require significant modification if the State Bar Advisory Opinion #07-R1 is modified to eliminate the possibility of maintaining cases involving the death penalty with a conflict of interest in house by utilizing satellite offices. GPDSC requests the right to request additional funds in the FY2010 amended budget should this opinion be modified as stated above.

Mike Berg seconded the motion, motion passed with one dissenting vote.

Don Oliver made a second motion that language be added in the form of a footnote to the Standards Council's FY2010 budget request as follows:

\*\*GPDSC further requests that any monies collected in the Indigent Defense Fund which are not appropriated to the Georgia Public Defender Standards Council be held in an emergency fund; that any funds left over at the end of a fiscal year which are collected in the Indigent Defense Fund and not appropriated to the Council be block granted to the individual local governing authorities using an appropriate funding formula; and that monies granted to the local governing authorities be used to offset costs for providing indigent defense services.

David Dunn seconded the motion, motion passed unanimously.

Don Oliver made a motion that the Council pass the FY2010 Budget Request as amended above. Jerry Word seconded, motion passed 6 votes to 3.

## **DISCUSSION ITEMS**

### **Senate Bill 42**

Chairman DuBose led the discussion on Senate Bill 42. Chairman DuBose spoke with Senator Preston Smith about his reasons for proposing Senate Bill 42, Smith listed the reasons below.

- 1) The GPDSC has not provided the Senate with a zero based budget as requested;
- 2) The legislature does not know who speaks for the Council;
- 3) The Director is not authorized to speak for the Council;
- 4) The Council has overruled the Director on proposed cost savings measures;
- 5) The Council has refused to submit a balanced budget;
- 6) The Council endorsed the move from the judicial to executive branch, then threatened to sue the state;
- 7) The Council think it is entitled to the full revenue stream collected by the indigent defense fund;
- 8) The Council is conflicting out cases when no conflict exists;
- 9) The legislature is upset with the Council about the Jamie Weiss case;
- 10) The Council has over-counted conflict cases and reported those cases to the legislature;
- 11) The Council has not appeared at meetings of the Legislative Oversight Committee;
- 12) The Council is trying to spend all of its money and run the system dry;
- 13) The Council is a rogue council and is trying to run out of money.

At this time, Chairman DuBose was expected at another meeting so he asked that the Council take action on its position on Senate Bill42. Wyc Orr moved that the Council go on record opposing Senate bill 42, Don Oliver seconded the motion. Motion passed with 7 yeas, and 4 members abstaining.

**Caseload Update**– this agenda item was tabled due to time constraints.

**EXECUTIVE SESSION**

Due to time constraints, no executive session was held.

Mike Berg made a motion to adjourn at 2:30 p.m., DuBose seconded. Motion passed.

The date for next regular meeting was originally scheduled for February 20, 2009. (That meeting date was canceled and rescheduled on Monday, April 6, 2009 at 10:00 a.m. at the GPDSC offices in Atlanta.)

These minutes are respectfully submitted this and adopted this 6<sup>th</sup> day of April, 2009.

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David Dunn, Secretary