

GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL

Minutes of a Regular Meeting

March 9, 2007

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, March 9, 2007, at the office of the Standards Council, 104 Marietta Street, Suite 200, Atlanta, GA 30303.

Council members present were Emmet Bondurant (Chairperson), Wilson DuBose (Vice-chair), Gerald Word, David Dunn (Secretary), Hon. Willie Lockette, Stephen Tillman, Paul Kurtz, and Ed Hine (arrived later).

Staff members present included Michael Mears (Director), Sarah Haskin (Deputy Director), Nolan Martin (Deputy Director), Paul Kehir (Deputy Director), Cindy Wang (General Counsel), Chris Adams (Capital Defender), Sabrina Rhinehart (Mental Health Advocate), Susan Teaster (Youth and Family Justice Division Director), Burt Baker (Training Director), Christie Crane (Governmental Relations Manager), Marques Smith (Budget Manager), Bentley Adams (Metro Conflict Defender), and Kazuma Sonoda (Metro Conflict Defender Office).

Circuit Public Defenders present were Gary Bowman (Flint Judicial Circuit Public Defender), Lee Robinson (Macon Judicial Circuit Public Defender), and Mike McCarthy (Conasauga Judicial Circuit Public Defender) [left after the swearing-in].

Other individuals present are listed in the guest sign-up sheet attached to these minutes as Attachment A.

I. CALL TO ORDER

Chairman Emmett Bondurant declared a quorum and called the meeting to order at 10:05 AM.

II. APPROVAL OF MINUTES

Council member Paul Kurtz moved to adopt the previously distributed minutes from the January 5, 2007 council meeting. The motion was seconded and approved unanimously (7-0).

Council member Gerald Word moved to adopt the previously distributed minutes from the February 10, 2007 specially-called council meeting. The motion was seconded and approved unanimously (7-0).

III. PRESENTATIONS

The Honorable Mike McCarthy was sworn in by the Honorable Willie Lockette as the new Circuit Public Defender for the Conasauga Judicial Circuit.

IV. PUBLIC COMMENTS

Stone Mountain Judicial Circuit Public Defender Larry Schneider stated that he has a problem with the media articles on the cost of the Brian Nichols case. He stated that the council should take responsibility for the cost of the Nichols case, and that he believed it was fiscally irresponsible to write a blank check for an indigent defendant.

Chairman Bondurant stated that it is the council's position that no one could have picked a better judge to preside over the Nichols case. Senior Superior Court Judge Hilton Fuller is doing a most conscientious job.

V. ACTION ITEMS

A. **Budget Transfers/Modifications**

Because the appropriation for Fiscal Year 2007 (FY07) was for 9 months of operation, the Standards Council is in need of additional funds to finish out FY07. Council member Kurtz moved to utilize reserve funds to operate until supplemental funding is appropriated by the General Assembly. The motion was seconded and approved unanimously (7-0).

Director Michael Mears recognized the efforts of Deputy Director Sarah Haskin, Deputy Director Nolan Martin, and Deputy Director Haskin's staff for doing a good job at the legislature. Council member Kurtz moved to adopt a resolution recognizing the good work of council members, staff, *et. al.* Chairman Bondurant stated that the agency has never been over budget. It has the most transparent accounting in state government. He also commended the circuit public defenders for their work.

B. **Proposed Internal Operating Policy on State Property Control (IOP 39-07)**

Director Mears explained that this proposed draft memorializes the existing council policy on control of state property. Some of the laptop computers have been stolen statewide. This policy attempts to address the issue.

Council member Kurtz moved to adopt the policy. The motion was seconded; however, Council Secretary Dunn made a substitute motion to table the adoption of the policy to receive comments from the field. Council Secretary Dunn's motion was seconded by Council member Word. The substitute motion was approved unanimously (7-0).

General Counsel Cindy Wang will post the draft on the council's website until the next meeting in order to receive comments. Council member Word requested similar policies from other state entities.

C. **Amendment to the Internal Operating Policy on the Reporting of an Accident (IOP 03-05)**

Council Secretary Dunn moved to adopt the revision to the Internal Operating Policy on the Reporting of an Accident (IOP 03-05). The motion was seconded and approved unanimously (7-0).

D. Proposed Internal Operating Policy GCIC Training Policy (IOP 40-07)

Deputy Director Martin explained the need for the policy in order to obtain access to GCIC. The policy was adopted by unanimous consent. General Counsel Wang informed the council that because of federal security law, the policy will not be posted on the website, but is available on the intranet.

VI. GEORGIA PUBLIC DEFENDERS ASSOCIATION

Current President of the Georgia Public Defender Association, Gary Bowman (Flint Judicial Circuit Public Defender), informed the council that he has been going around the state talking with circuit public defenders and assistant public defenders with the purpose of achieving better communication among the central office, the individual circuit public defender offices, and the council members. He hopes to create a partnership. He stated that the success stories of the circuit public defender offices are not getting out to the general public.

VII. DIRECTOR'S REPORT

Because the director's report consisted of personnel and litigation matters, the report was moved to executive session by unanimous consent.

VIII. OTHER REPORTS

A. Compliance, Training & IT Report

Deputy Director Martin informed that the offices are 93% compliant with the 72 hour rule. The number of unassigned cases is at 225. Council member Kurtz asked why the compliance rate for the 72 hour rule is 93%. Deputy Director Martin explained that the circuits with the lower compliance rates have jails located outside of the circuit. He is working on the jail reports, but there are many variables. Council member Kurtz expressed interest in the circuits with alternative delivery systems.

Council member Word informed the council that the weighted caseload system is on the back burner because of funding issues. The council has third party groups analyzing the data.

Deputy Director Martin stated that he would like to make bond hearings an entry field in JCATS. Council Secretary Dunn stated that the issue is controversial. Chairman Bondurant and Vice-Chair DuBose reminded that the JCATS data will benefit the circuit public defender offices. Deputy Director Martin stated that he and Deputy Director Haskin are working on a project to compare the JCATS data with the data submitted

by the clerks to the Administrative Office of the Courts to see what percentage of the caseload are indigent cases.

B. Report of the Georgia Capital Defender

Capital Defender Christopher Adams reported that his office is down to \$10,000 in discretionary funds. He asked that the remainder of his report be moved to the executive session because it involved litigation matters. It was moved to the executive session by unanimous consent.

C. Report of the Mental Health Advocate

Mental Health Advocate Sabrina Rhinehart informed the council that she has been working with the Department of Human Resources on SB 190 regarding the way competency cases are handled. She also talked about the establishment of mental health courts. Carroll County would like to establish a mental health court. The mental health court in Macon is set to start in April.

[Council member Ed Hine arrived.]

D. Report of the Youth and Family Justice Division

Division Director Susan Teaster reported that the division has instituted a pilot forensic project in Bartow County for juveniles. The project appears to be successful. They hope to regionalize the project. The division has received two grants: 1) long term grant to do SB 440 reports; and 2) a grant from the Georgia Supreme Court regarding deprivation representation. They are working on finalizing the draft of the performance standards for attorneys representing parents in deprivation proceedings. The draft is being vetted for comments. The division is also working on a trial manual. The training conference has been postponed because of funding issues. Finally, they are monitoring the juvenile legislation.

E. Financial Report

Deputy Director Haskin reported that the council is low on capital and C3 case funds. She stated that the good news is that the Indigent Defense Fund has collected \$29.28 million to date. The collection of the \$50 application fee is still low.

F. Legislative Report

Deputy Director Haskin informed the council that the session is going to be long. Legislative Day 37 is scheduled for April 17th. Representative David Ralston, Chairman of House Judiciary Non-civil Committee, has suggested holding off on the bill to add juvenile assistant public defender position. The issue may be taken up by the study committee. The council agreed by unanimous consent to not file the bill.

The council members also expressed concern over some of the legislative bills affecting the council. Vice-chair DuBose stated that the State Bar's Indigent Defense Committee voted to support HB 586 which limits the state's responsibility for conflict capital defense cases to 2 attorneys.

IX. SPECIAL ELECTION OF STANDARDS COUNCIL OFFICERS

[Council member Wycliffe Orr joined the meeting via telephone.]

A. Chairperson

Council member Word nominated Vice-chair Wilson DuBose to be the next Chairperson. Chairperson Bondurant will vacate the position after the meeting. Council Secretary Dunn seconded the motion. Council member Ed Hine moved to elect the Honorable Wilson DuBose by acclamation. The motion was seconded by Council member Kurtz. The motion was adopted unanimously (9-0).

B. Vice-chairperson

Council member Word nominated the Honorable Stephen Tillman as the Vice-chairperson by acclamation. The motion was seconded by Council member Kurtz. The motion was approved unanimously (9-0).

Council member Orr expressed his gratitude to Chairman Bondurant for his unparalleled leadership since the 1960s on the issue of indigent defense. He congratulated both Chairman-elect DuBose and Vice-Chair-elect Tillman.

Chairman-elect DuBose presented Chairman Bondurant with a statue paid by the council members and staff. Chairman Bondurant commended the staff for bringing the system into existence. He is proud of the collaborative effort. The support of the State Bar's Indigent Defense Committee (chaired by the Honorable Wilson DuBose) and the State Bar of Georgia are credited with the creation of the system.

[Lunch break at 12:10 PM.]

X. EXECUTIVE SESSION

Chairman-elect DuBose moved to go into Executive Session to discuss personnel and litigation matters. The motion was seconded and adopted unanimously (8-0).

XI. FUTURE MEETINGS

The next regularly scheduled Council meeting will be Friday, April 27, 2007 at 10:00 AM.

XII. ADJOURNMENT

The meeting was adjourned at 2:44 PM.

These minutes are respectfully submitted this ____ day of April, 2007, and adopted this 27th day of April, 2007.

David Dunn, Secretary