

GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL

Minutes of Regular Meeting

April 18, 2008

The regular meeting of the Georgia Public Defender Standards Council was held on Friday, April 18, 2008, at the office of the Standards Council, 104 Marietta Street, Suite 200, Atlanta, GA 30303

Council members present were Wilson DuBose (Chairman), Stephen Tillman (Vice Chairman – by telephone), David Dunn (Secretary), Dr. Paul Kurtz, Judge Willie Lockett, Judge Mark Scott, Lee Morris, Donald Oliver, Wyc Orr, Bill Rumer, and Jerry Word. (by telephone).

CALL TO ORDER

Chairman DuBose declared a quorum and called the meeting to order at 10:10 AM

APPROVAL OF MINUTES

Judge Scott made the motion to approve the minutes from the GPDSC Special Call Meeting held February 29, 2008, GPDSC Special Call Conference Call held on March 10, 2008, and GPDSC Special Call Conference Call held on March 25, 2008. Lee Morris seconded, motion was adopted unanimously.

PRESENTATIONS / REQUESTS

Attorneys' Michael Garrett and Randolph Frails addressed the Council requesting payment for a pre-2005 death penalty case in Burke County, Georgia. Mr. Garrett testified that the former Council Director, Michael Mears asked him to handle the case and represented that the council would pay for the case. Mr. Frails stated that the council is responsible for paying the \$85,000 due and that they would litigate with the council if necessary. Chairman DuBose stated that there is a philosophical difference in the law in that the council does not have the ability to pay for cases that were death noticed prior to January 1, 2005.

David Smith, the Tallapoosa Circuit Public Defender addressed to the Council to request approval of the revised Employee Political Activity policy submitted for council action by the Circuit Public Defender policy committee.

PUBLIC COMMENT

Attorney Stephen Bright spoke to the Council regarding the current training program, death penalty representation and issues relating to the 6th amendment to the U.S. Constitution. Mr. Bright handed out a manual that he had prepared for the Council titled "Recommendations and materials for the Director and Members of the Georgia Public Defender Standards Council". Mr. Bright made three points during his testimony including:

- 1) The Council should stop micromanaging some cases and not others;
- 2) The Council needs to train its lawyers better;
- 3) The Council should run its operation frugally, but should do everything it can not to dump capital (death penalty) cases on the circuit public defenders.

Judge Scott assured Bright that the council will take a strong look at its constitutional responsibilities. Wyc Orr asked Director Crawford why the training program was reduced. Crawford explained that training had been suspended through the remainder of the year based on the Council's funding situation.

Orr made a motion that the Council conduct an internal review of Mr. Bright's issues to determine whether it should change its policies to address these issues. Motion was seconded by Stephen Tillman. Judge Scott had questions and asked that the motion on the floor be considered after the Director's report. Motion held.

ACTION ITEMS

1. The contract between GPDSC and Mercer Law School for our intern program was presented by Sarah Haskin and Lee Robinson. Steven Tillman made a motion to approve, David Dunn seconded the motion, approved.

2. Protocol for requests to the Attorney General's office – Jan Hankins presented the proposed protocol from the Attorney General's office regarding requests from the agency for legal assistance. Hankins requested that the Council delegate authority to the Director to allow him to request legal opinions from the Attorney General. Judge Scott moved to approve, Stephen Tillman asked to amend the motion to allow the Chairman of the Council to be notified of all requests sent to the Attorney General's office. Jerry Word moved to adopt the motion amended as follows: When the Council is requesting representation by the Attorney General that authority is delegated to the Director. When the request involves responding to a lawsuit then Council action would be required before requesting representation." Lee Morris seconded the motion, approved (Wyc Orr dissented).

POLICIES FOR NOTICE

2i. **Employee Political Activity** – David Dunn went through the proposed policy and explained the differences between the existing policy, which would prohibit employees from running for office while employed with the Standards Council. Under the proposed policy employees would have to comply with all existing state and federal laws but would not be required to resign from employment to run. Dunn stated that Sarah Haskin had spoken with the Attorney General's office and the opinion was that the council could change its existing policy. Tillman moved to adopt the policy for notice, Oliver asked that the policy be amended by adding "or seeking appointment" in the last paragraph to the language. Motion was made to notice as modified, approved.

The question then came up of David Smith's (Tallapoosa Circuit Public Defender) request for a waiver from the Council to run for District Attorney without resigning his position. David Dunn made the motion that due to time constraints with the policy change, the Council grant Mr. Smith a waiver from the existing policy so that he could qualify for the position of District Attorney. Dunn further stated that under this waiver Smith would be required to comply with all existing state and federal laws regarding political activity. Dunn also requested that Bob Wadkins, the Muscogee Circuit Public Defender be granted a waiver. Stephen Tillman seconded the motion. DeBrae Kennedy with the Attorney General office suggested that the Council grant a blanket waiver for employees until the new policy could be voted on. Dunn made a motion to withdraw his previous motion and offered a substitute motion that the Council suspend the policy until they can reconsider the new policy. Motion failed. Dunn then went back to his previous motion. Lee Morris made an amendment to the motion to suspend sections 3 (a)1, 3 and 4 of the

Council's current Employee Political Activity policy until the new policy could be considered. Judge Scott seconded the motion, motion passed (Chairman DuBose dissented).

2ii. **Quality Assurance Committee** - David Dunn made a motion to approve proposed Quality Assurance Committee policy, Stephen Tillman seconded the motion. It passed by a unanimous vote.

2iii. **Email accounts** - David Dunn made a motion to withdraw this policy for notice this month and to resubmit at a later date. Motion was seconded by Stephen Tillman. Policy tabled.

2v. **JCATS restrictions** - Item tabled for a later date.

DISCUSSION ITEMS

HB 1245 – Sarah Haskin went through the changes to the current Indigent Defense Act of 2003 due to the passage of House Bill 1245.

Budget – Marques Smith presented the funds appropriated to the Standards Council from the legislature for the Amended FY 2008 and General FY2009 budget cycles.

DIRECTOR'S REPORT

Mack Crawford discussed the need for the Council to develop individual budgets for training and all other areas of the organization. He also informed the Council that he is working on a personnel reorganization plan for FY2009 that will be presented at the next council meeting.

Wyc Orr asked that the Council return to his previous motion. Word seconded the motion from earlier. Motion approved. Project assigned to the Litigation Committee. The Chairman asked the committee to report its findings at the next council meeting.

OTHER REPORTS – all other reports submitted by staff in written form.

The council, before going into executive session, requested that the staff explore funds and opportunities for a council retreat to be held once the new council members are appointed.

EXECUTIVE SESSION

Council moved to go into Executive Session at 3:30 to discuss pending litigation.

At 4:00 p.m. the council went back into regular session. Judge Scott made a motion to adjourn, motion was seconded by Jerry Word. The meeting was adjourned.

The date for next regular meeting is Friday, June 20, 2008

These minutes are respectfully submitted this 18th day of April, 2008 and adopted this _____ day of April, 2008

David Dunn, Secretary

