

Georgia Public Defender Standards Council
Meeting Minutes
June 25, 2004

Regular Meeting was called to order at 9:00 AM.

Seven Council members were present. Ed Hine participated by phone. Three ex-officio members were present. Michele Henderson, Judge Hancock, Paul Kurtz and Evelyn Turner-Pugh were unable to attend.

Motion was made to approve the minutes from May 21, 2004. Motion seconded, approved.

Public Presentations:

- 1) Chief Judge, Frank Mills from the Blue Ridge Judicial Circuit (Cherokee County): This circuit has utilized a panel system since the 70's. Should their opt out request be granted they will continue to follow our guidelines. The Cherokee County Commissioner Chairman, Mike Byrd and the local bar are also in favor of opting out. Linda Haynes and David Cannon were also in attendance to speak for the request. David Cannon was the main spokesman. Question was asked regarding the adherence with the 72-hour rule and a mechanism in which this rule was tracked for compliance. Currently there is no such mechanism. Cherokee county has never had a case overturned due to ineffective assistance of counsel. They will need the hourly rates, training requirements and other information from us. They would like our assistance and guidance in molding their system. Question was asked about the first appearance hearings: Will panel be provided voluntarily or will it be mandatory? They need our guidance about this as well. Chairman Bondurant states that the Council wants to cooperate and that it is in the process of adopting standards and rules. Staff will investigate request. Our point person will be David Cannon.
- 2) Tisha Tallman, Director of MALDEF Southwest Regional Office: MALDEF, which does litigation, public policy and community outreach: Of the five programmatic areas for MALDEF immigrant rights and access to justice, are most relevant. These deal with victims of the criminal justice system, i.e. day laborers. Two critical issues need to be addressed: (1) adequacy of representation (no standards for interpreters) and (2) training that Public Defenders receive. There are abuses in Cherokee County, including the request of immigration status, which is used to determine whether to give probation or jail sentence to the convicted defendant. It is inappropriate to use the the criminal law to enforce civil immigration laws. Jailors are calling INS agents, and holding defendants under an INS hold. There are no "INS holds". Holding someone in jail requires an INS order.. Many Public Defenders have clients that can not get out of jail for this reason. The council members asked questions regarding MALDEF as a resource. Immigrant issues should be a part of the Standards Council training. The Standards Council needs to educate public defenders on the abuses of the system. MALDEF was asked to put Standards Council attorney and staff positions

on their website. Concern regarding migrant workers in particular areas. Georgia Legal Services' Farmworker Unit could help with that information. Philippa Maister with the AOC commented that the AOC has a program to certify interpreters. Council members expressed the desire to work with MALDEF.

New Business

Grants to Counties:

Sarah Haskin reported that Costs and Caseloads have increased by 20% from calendar year 2001 to 2003. There has been an increase of approximately 20,000 cases each year. Four out of 133 applications are incomplete. Turner and Tift counties have requested an extension until July 15th. Six counties have requested waivers. The counties are requesting waivers concerning the 72-hour-rule and the 45/60 Hourly rate. Mike Mears suggests that the waivers be granted due to the fact that these counties are working with the Council to implement the new system. A Motion was made to approve grants . A discussion followed about Mike Mears drafting a letter dealing with reason of issuing the grants. The letter will state that we are not waiving any requirements, and that we are granting funding irrespective of the guidelines being met. This letter will then be approved by the executive committee. It was decided that language should be added in the letter stating that in no way is any action to be or deemed to be against the rights of the accused. The motion to send the letter was amended and approved. Council then voted on the motion to approve the grants. The motion was approved 6-0. A motion was made to hold the checks of the four incomplete applications until all requested documents were received. The motion was approved by a vote of 6-0. A motion was approved to extend the deadline for all counties that have not completed an application until July 30th.

Public Comment

1) **Amy Howell of the Southern Juvenile Defender Center** requested that the board closely scrutinizes counties which are requesting to opt out, particularly with regard to juvenile cases. The Southern Juvenile Defender Center would like to have specially trained attorneys that handle juvenile cases in each Public Defender office. The area of juvenile law needs its own standards and funding. Chairperson Bondurant asked her to submit information on guidelines for juvenile practice from their National organizations to Jerry Word.

2) **Senator Vincent Fort spoke on his concerns with two things:**

a) Exclusion of African Americans in the new Public Defender system: There are only two African Americans hired as Circuit Public Defenders. Senator Fort is aware that the Council and its staff play no part in the selection of the panels or in the selection of the Circuit Public Defenders. He would like to see the Council and staff advocate on these issues.

b) District Attorneys on the Panel: Senator Fort states that this is a conflict, which will impact the public's trust of the system.

3) **Lance Stewart, Paralegal, Southern Center for Human Rights:** Stated his concern regarding Judge Mills comments that once a person bonds out, he/she has ten days to apply for a lawyer and if they do not apply for a lawyer, a bench warrant is issued.

4) The Supreme Court Commission's last meeting to hear Clark Cunningham's report on Alabama vs. Shelton will be August 13, 2004.

Director's Report:

a) \$50 Application Fee: The staff is working on a procedure for the collection of this fee, with Cordele as the test site. Non-payment of the fee will not result in jail time due to probation revocation. Chairperson thinks it will be better on the front end. Staff feels that the funds should be collected at the tail end. Issue is should it be an application fee or a recoupment fee.

b) Conflict Cases – There are three ways to handle conflict cases. Director would like Council to let staff determine which of the three ways is more appropriate. The difference between the second and the third is that someone would automatically receive conflict cases versus a panel list. Either way the conflict attorneys will be paid at an hourly rate. It is suggested that the judges make an appointment from the panel that the Council will then approve and supervise.

c) Clerks and Sheriff's Funding Account - Cherokee County has not remitted interest since 1993, and has never set up accounts to handle the interest. The monies that the Sheriffs have submitted have gone directly back into the County's general fund. Superior and state courts have never submitted any monies. The staff is unaware of the exact amount of money that Cherokee County owes. Cherokee County has received from GIDC grants \$125,000. Chairperson Bondurant requested that the Grants to County check not distributed to Cherokee County until their Clerks and Sheriff's funding is remitted to the Council. Director Mears adds that this also shows the Counties track record in compliance with state laws. Motion to hold any grant funds to any counties that have not remitted their Clerks and Sheriff's funds, motion seconded, approved.

d) Meeting with Fulton County Superior Court Judges –The meeting went well. The Fulton County staff will make a recommendation that the Atlanta Judicial Circuit opt in.

e) Conflict Case study – Bob Spangenberg is preparing a proposal to study conflict cases. They will try to partner with Georgia State University.

f) Public Defender Orientation – The orientation went very well. 40 of the 41 appointed Public Defenders were present on the first day. The Public Defenders are having trouble recruiting staff.

h) Swearing In Ceremony – The ceremony will be held July 21st in the House of Representatives Chambers at 10:30 a.m. Chief Justice Fletcher will conduct the ceremony. A luncheon will be held afterwards.

i) Sexual Harassment Policy – The policy was adopted by GIDC in 1995. Director Mears asks the Council to adopt the policy. Motion to approve. Comment to add the word

“inappropriate.” Move to adopt the amended policy. It will be ratified at the following meeting.

Maintenance of County Budgets: Chairperson would like to make the receipt of Grants to Counties Funds contingent upon counties maintaining their current funding of 2004. Jim Martin will give an opinion.

Budget:

Sarah Haskin gave the following outline for the upcoming budget timeline:

- 1) July 15th: Budget presented to OPB for their comments
- 2) July 23: Propose Budget, with Governor’s comments for action to Council
- 3) August 2: Approved Budget will be presented to Judicial Council

GPDSC is operating under 2004 Budget. We are closing out our fiscal year. All approved expenditures have been spent.

Caseload Management Study:

Two proposals were submitted. Georgia Tech would charge \$75,000 and the Murphy Center is charging \$16,500. Jerry Word recommends that the Murphy Center proposal be accepted. No Council action required.

Meeting was adjourned to executive session at 2:30 p.m. to discuss Cobb County opt out request.

Meeting was Adjourned.

Future Meetings:

July 23, 2004 at 10:00 a.m.

GPDSC meeting, June 25, 2004 Attendee List

Lance Stewart, SCHR
Cindy Wang, GPDSC
Carol W. Hundstein, Judge, Georgia Superior Court
Henry Newkirk, Fulton County State Court
Philippa Maister, AOC
Jeff Rusbridge, Blue Ridge Bar Association
Eilen McElyee, Judge, Cherokee County Juvenile Court
Jonathon A. Kesler, Attorney, Blue Ridge Bar Association
Jackson Harris, Judge, Blue Ridge Superior Court
Jerry W. Cooper, Cherokee County Manager
Gary Moss, District Attorney, Blue Ridge Judicial Circuit
David L. Cannon, Blue Ridge Judicial Circuit
Amy Howell, Southern Juvenile Defender Center
Mike Byrd, Cherokee County Commissioner
Vincent D. Fort, State Senator
Chris Adams, MPD
Gary Parker, GPDSC
Tisha Tallman, MALDEF
Joel Alvarado, MALDEF
Doug Ashworth, CSCJ Sarah Haskin, GPDSC
Jim Martin, GPDSC
Mike Mears, GPDSC
Hannah Allerdice, GPDSC