

**BEFORE THE BOARD OF TRUSTEES
OF THE PUBLIC DEFENDER SERVICE CORPORATION
RELATIVE TO THE CREATION OF
THE ELDER JUSTICE CENTER PILOT PROGRAM**

RESOLUTION NO. 06-20

- WHEREAS,** the Public Defender Service Corporation ("PDSC") was created by Public Law 13-051 to provide effective legal aid and assistance to those persons in Guam unable to afford counsel;
- WHEREAS,** section 60004 of Title LXIV of the Guam Code, repealed and reenacted by P.L. 13-051, specifically directs the PDSC to render legal aid and assistance to qualified individuals in civil cases;
- WHEREAS,** adopted by this body on August 28, 2012, Resolution No. 13-12 imposed a temporary restriction on the types of civil cases the PDSC could accept for representation. This resolution was necessary due to the staffing and financial circumstances affecting the PDSC at the time. The modification of the moratorium imposed by Resolution No. 13-12 is addressed separately in Resolution No. 05-20;
- WHEREAS,** the Department of Public Health and Social Services ("DPHSS"), Division of Senior Citizens ("DSC") has proposed to sub-grant to the PDSC the Legal Assistance Services ("LAS") program it administers for the purpose of providing legal assistance and representation to individuals aged 60 or older;
- WHEREAS,** the Executive Director of the PDSC has represented to the Board of Trustees a willingness to accept the work proposed and the ability to complete the work without compromising the scope of criminal defense work the PDSC provides, and has presented a plan for limiting conflicts of interest;
- WHEREAS,** this body recognizes that there is a tremendous need for the services described. Members of the population at issue have both sacrificed mightily and contributed selflessly to the betterment of our community and country. We all gratefully stand on their shoulders;

WHEREAS, while there is a need for the services at issue, this body must ensure that the PDSC is financially fit for this purpose, that the increase in scope of work does not result in an increase in conflicts of interest, and that a conflict wall and screening mechanisms are in place and supported by existing law. Now, therefore, be it

RESOLVED that the PDSC is hereby authorized to begin a pilot program to provide legal services covered by the LAS program administered by the DPHSS, DSC. The pilot program shall be known as the Elder Justice Center ("EJC"), a division of the PDSC, and it shall operate as a pilot program that is six months in duration from the adoption of this Resolution;

RESOLVED that the government of Guam has only begun to realize the financial effects of the COVID-19 pandemic. The PDSC must continue to satisfy its primary function of representing indigent clients in criminal cases without becoming financially burdened with new responsibilities or unfunded mandates. The Board of Trustees was advised that the EJC will be partially funded with federal grants with a requirement for matching funds appropriated to the DPHSS through the government of Guam. The PDSC is directed to make use of this funding and to use its discretion in allocating staff and resources to make the EJC successful, but it may not create additional permanent positions or financial obligations for the EJC outside of the current PDSC budget that would burden the general fund of the government of Guam;

RESOLVED that the EJC shall only accept clients who financially qualify for services, using the same intake tools that exist for all PDSC cases. The EJC shall not compete with the private bar for clients who would otherwise be able to afford an attorney at their own expense;

RESOLVED that avoiding conflicts of interest is of paramount importance. The PDSC is directed to implement a conflict wall that will eliminate conflicts arising in criminal cases as a result of the additional work under the LAS program. To avoid conflicts, the Executive Director of the PDSC will have neither access to confidential EJC files nor control of the day-to-day operations of the EJC. A separate case management system will be used for the EJC. Any EJC file that represents a known conflict with any PDSC case or client will be clearly marked

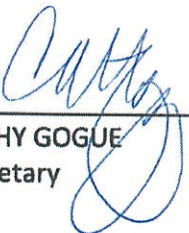
and kept in a separate filing cabinet so these matters are clearly identified and controlled;

RESOLVED that the EJC will not engage in adversarial litigation, further eliminating potential conflicts. The EJC will not participate in real estate transaction matters, including Special Power of Attorney cases involving real property, deeds, and other real property conveyances. The work described by the DPHSS, DSC includes wills, powers of attorney, and guardianships of the person. While EJC attorneys may periodically file documents in court, they will focus their energies on transactional matters;


RESOLVED that day-to-day operations of the EJC will be supervised by a managing attorney. The Executive Director of the PDSC will maintain nominal control of the EJC for purposes of staffing, administration, and budgeting. The Executive Director will have access to non-confidential case statistics so that he may properly advise the Board of Trustees on the effectiveness of the LAS program as the Board sees fit. Authorized signatories for the EJC will be the Executive Director and the Administrative Director of the PDSC. These parties are authorized to execute documents implementing and establishing the EJC pilot program; and, be it further

RESOLVED that the Executive Director of the PDSC shall be prepared at each monthly meeting of the Board of Trustees to present an update concerning the effectiveness of the EJC, conflicts of interest, expenses, the adequacy of representation, and other issues that may arise. The Board of Trustees will review the six-month pilot program upon its expiration for further action.

DULY AND REGULARLY ADOPTED this 28th day of July, 2020.



CATHY GOGUE
Secretary



Chief Justice F. PHILIP CARBULLIDO
Chairman

