

**BY-LAWS  
PUBLIC DEFENDER SERVICE CORPORATION  
BOARD OF TRUSTEES**

**Article 1**

**1.01 PLACE OF MEETINGS.** Meetings of the Public Defender Service Corporation Board of Trustees, hereinafter referred to as the “PDSC Board” shall be held at the Monessa G. Lujan Courtroom of the Supreme Court of Guam or other place stated in the notice of the meeting.

**1.02 REGULAR MEETINGS.** Regular meetings shall be held monthly on the fourth Tuesday of the month at the time specified in the notice of the meeting and if the fourth Tuesday falls on a legal holiday, the meeting shall be held on the next working day. If, by reason of an emergency, it shall be unsafe to meet on the fourth Tuesday of the month, the meetings may be held for the duration of the emergency at such other time as is designated by the Chairperson.

**1.03 SPECIAL MEETINGS.** Special meetings of the PDSC Board, for any purpose or purposes, may be called by the Chairperson or a majority of the members of the PDSC Board. Motions voted on shall be passed by at least three(3) of the members present. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

**1.04 NOTICE.** Written notice stating the place, day and time of the regular or special meeting and the purpose or purposes for which the meeting is called, shall be delivered to each member by or at the direction of the Chairperson or the Administrative Director of the PDSC who shall be secretary for the Corporation. Public notice of any regular or special meeting shall be provided at least (5) working days prior to the start of any meeting and a second public notice shall be provided at least forty-eight (48) hours prior to the start of any meeting. The five (5) working

days notice and the forty-eight (48) hours notice may be waived in the event of an emergency certified to in writing by the Chairperson.

**1.05 AGENDA.** For all meetings, the Chairperson in conjunction with the Director of the PDSC shall set the items to be discussed on the agenda.

**1.06 QUORUM.** No less than three (3) members of the PDSC Board shall be requisite and shall constitute a quorum at a meeting of the Board. For purposes of these Bylaws, at least three members must vote in favor for a motion to pass.

**1.07 METHOD OF VOTING.** Each member shall be entitled to one vote on each matter, motion or question submitted to a vote at a meeting of the PDSC Board. No proxy shall be valid. However, if a member of the PDSC Board is off-island during a PDSC Board meeting, he or she may participate by conference call as if physically present.

**1.08 VOTING.** Except as provided in Rule 3.05, the following voting rules shall apply to all acts, questions or motions before the PDSC Board:

a. No act of the PDSC Board shall be valid except with the concurrence of no less than the majority of the members of the PDSC Board. For purposes of this rule a majority is three(3) members regardless of the number of members who are participants when the act or resolution is discussed. Three(3) members may agree in writing to a resolution of the Board that decides any matter that could be brought before the Board for vote in a regular meeting.

b. No motion or question shall pass the PDSC Board except with the concurrence of no less than three (3) of the members of the PDSC Board.

**1.09 ORDER OF BUSINESS AT MEETINGS.** The order of business at meetings should be as follows:

- (1) call to order
- (2) proof of due notice of meeting
- (3) determination of quorum
- (4) reading and disposing of minutes of last meeting
- (5) communications
- (6) old business
- (7) new business
- (8) public discussion
- (9) adjournment

## **Article 2**

**2.01 MEMBERS OF THE PDSC BOARD OF TRUSTEES.** The Board of Trustees of the Public Defender Service Corporation pursuant to 12 G.C.A. §11107 as amended by PL27-104 consists of the Chief Justice of the Supreme Court, who shall be Chairman, the Presiding Judge of the Superior Court who shall be Vice Chairman, the President of the Guam Bar Association shall be a member, two(2) members appointed by the Chief Justice of the Supreme Court of Guam whose terms shall be for three(3) years. Neither person appointed by the Chief Justice shall be the Attorney General, or a member of his staff. The Trustees shall not be employees of the Corporation.

**2.02 CHAIRPERSON.** The PDSC Board shall have a Chairperson. The Chairperson of the PDSC Board shall be the Chief Justice of the Supreme Court of Guam. Each Chairperson's term shall end upon the election of his or her successor as Chief Justice. In the event of absence of the

Chief Justice, the senior full-time Associate Justice shall act as Chairperson in his place or if absent the Vice Chairman, Presiding Judge of Superior Court shall act as Chairperson.

**2.04 VACANCIES.** Any vacancy occurring in the Chairperson of the PDSC Board by death, retirement or resignation shall be filled upon the election of a Chief Justice, acting or permanent. For purposes of these Rules, when a justice or judge is appointed and confirmed but has not taken the oath of office, a vacancy continues to exist.

**2.05 SECRETARY.** The Administrative Director of the PDSC shall be the Executive Secretary for the Board who shall attend all meetings of the PDSC Board and record all votes, actions and minutes of all proceedings. He or she shall give or cause to be given notice of all meetings. The Administrative Director/Executive Secretary shall be a classified employee of the PDSC.

### **Article 3**

**3.01 FISCAL YEAR.** The fiscal year of the Public Defender Service Corporation shall begin on October 1<sup>st</sup> and end September 30<sup>th</sup>.

**3.02 CONSTRUCTION.** Whenever the context so requires, the masculine shall include the feminine and neuter, and the singular shall include the plural, and conversely. If any portion of these Rules shall be invalid or inoperative, then, so far as is reasonable or possible, the remainder of these Rules shall be considered valid and operative and effect shall be given to the intent manifested by the portion held invalid or inoperative.

**3.03 TABLE OF CONTENTS: HEADINGS.** The table of contents and headings are for organization, convenience and clarity. In interpreting these Rules, they shall be subordinated in importance to the other written material.

**3.04 RELATION TO STATUTE.** These Rules are subject to and are governed by the applicable statutes.

**3.05 AMENDMENTS.** These Bylaws may be amended by the PDSC Board at any regular meeting only upon the concurrence of at least three (3) members of the Board provided, the proposed amendment was submitted in writing at the previous regular meeting by a member of the PDSC Board. An approved amendment shall go into effect immediately.

#### **Article 4**

- 4.01 POWERS OF THE PDSC BOARD.** The Board shall have the following powers:
- a. To adopt policies and its own rules, in conjunction with the Board appointed Executive Director, for the PDSC Board and the Public Defender Service Corporation and make requests to *I Lehislaturan* as may be deemed appropriate for the effective and expeditious administration of the PDSC with the purpose of improving and streamlining indigent criminal defense services and legal services provided to all those who cannot afford a lawyer;
  - b. To make other recommendations regarding legal representation of the indigent community to *I Maga'lahaen Guahan*, or to *I Lehislatura* as it deems proper;
  - c. To follow the Judicial Council's adopted unified pay schedule for the employees of the Judicial Branch consistent with the Hay Study and Unified Pay Schedule adopted in 1991, as amended and 4 G.C.A. §6208 codifying the attorney salary scale into law as amended by PL 27-106;
  - d. To adopt policy and rules for the operation of the PDSC, including but not limited to, personnel, procurement, facilities and property, financial and travel (the provisions of §§ 6302(c), 6303 and 4105 of Title 4 of the Guam Code Annotated and 5 G.C.A. § 23109 of the Guam

Code Annotated having been reaffirmed);

e. To follow and implement establish rules and regulations for appeals and grievances brought upon by classified employees of the PDSC, who have exhausted administrative remedies. The Executive Director after consultation with the PDSC Board shall apply to the Judicial Council which is authorized to designate and delegate a hearing officer, to hear and decide personnel matters, whose decision shall be final and may be appealed to the Superior Court of Guam;

f. To review and approve the budget for the operation of the PDSC and its divisions, and submit its recommendations to *I Lehislaturan Guahan*, under the signature of its Chairperson, by the first day of May of each year;

g. To employ, retain or contract for the services of qualified specialists or experts, as individuals or as organizations, to advise and assist the PDSC in the fulfillment of its duties;

h. To sue on behalf of the PDSC, including on behalf of the PDSC's employees, or itself to enforce any rights granted to the PDSC;

i. To lease, evict, or sue on behalf of the PDSC, relative to Court properties, equipment, and facilities;

j. To approve and appoint an Executive Director who shall be unclassified and have at least five(5) years experience in the practice of law. The Executive Director shall have sole responsibility to carry out the purposes and duties of the Corporation pursuant to P.L 13-51 codified in 12 G.CA. § 11108.

(1). The Director is authorized to appoint attorneys and such other personnel and fix their duties, under and in accordance with 4 G.C.A., as may be necessary to fulfill the Director's

responsibilities to carry out the purposes and duties of the Corporation. The Executive Director's authority to appoint personnel includes appointing an Administrative Director who shall serve under the express direction of the Executive Director. The Administrative director shall be responsible for the budget, staffing, planning, organizing, coordinating and directing activities necessary to insure fulfillment of the powers, duties, and missions of the Board and day-to day operations of the Public Defender Service Corporation under the express direction and with the concurrence of the Executive Director.

(2). The Executive Director is authorized to promulgate the PDSC's own rules for its conduct and operation in conjunction with the appointed Administrative Director;

k. The Board shall adopt a uniform system of accounting for the "Public Defender Service Fund" which shall be maintained by the Corporation "in house" separate and apart from other funds of the Government. Independent records and accounts shall be maintained in connection therewith. The Executive director is authorized to appoint a Chief Fiscal Officer who shall be responsible to insure that all monies received are deposited in the said Public Defender Service Corporation Fund. The Chief Fiscal Officer shall insure that independent records and accounts are maintained and that all funds expended are authorized by the PDSC Board or as Board delegated by authority of the Executive Director.

**4.02 CONSTRUCTION OF ARTICLE 4.** Nothing contained in this Article shall be construed directly or by implication to be in any way in derogation or limitation of the powers conferred upon the PDSC Board or existing in the Supreme Court and the Superior Court or the Judiciary by virtue of any provision of the Organic Act of Guam or any statutes of Guam

## **Article 5**

**5.01 INTRODUCTION OF BUSINESS.** All business shall be brought before the PDSC Board by the Chairperson in conjunction with the Executive Director or by a motion of a member relating to the agenda items of a particular meeting.

**5.02 MAKING A MOTION.** Before a member may make a motion or address the PDSC Board upon any question, it is necessary that he or she obtain the floor; that is, he or she must address the Chairperson who will then announce the member's name whom he or she recognizes.

**5.03 OPENING A SUBJECT TO DEBATE.** Before any subject is open to debate it is necessary, first, that a motion be made by a member who has the floor; second, that it be seconded; and third, that it be stated by the Chairperson.

**5.04 BUSINESS.** After a question has been stated by the Chairperson, it is in the possession of the PDSC Board for debate; the movant cannot withdraw or modify it, if anyone objects, except by obtaining leave from the PDSC Board, or by moving an amendment.

### **5.05 MOTIONS**

a. No principal motion can be made when any other question is before the PDSC Board. It takes precedence of nothing, and yields to all privileged, incidental and subsidiary questions.

b. Subsidiary or secondary motions such as are applied to other motions for the purpose of most appropriately disposing of them. They take precedence of a principal question and must be decided before the principal question can be acted upon and are as follows (being arranged in their order of precedence among themselves): Lay on the Table; The Previous Question and Amend.



c. Incidental questions are such as arise out of other questions, and, consequently take precedence of, and are to be decided before, the questions which give rise to them. They yield to Privileged Questions and cannot be amended. They are undebatable, and are as follows: Objection to the Consideration of a Question and Leave to Withdraw a Motion.

d. Privileged Questions are such as, on account of their importance, take precedence of all other questions whatever, and on account of this very privilege they are undebatable. They are as follows (being arranged in their order of precedence among themselves): To fix the time to which the PDSC Board shall adjourn and to adjourn or recess.

e. The motion to rescind has no privilege but stands on a footing with a new resolution. An action of the PDSC Board may be rescinded by the majority of the PDSC Board regardless of the time that has elapsed. If anything which the PDSC Board cannot reverse has been done as a result of a vote, then that action cannot be rescinded.

f. The motion to reconsider the vote is in order at any time, even when another member has the floor, or while the PDSC Board is voting on the motion to adjourn, during the day on which a motion has been acted upon, or the next succeeding meeting. Such motion shall be entered on the record, but it cannot be considered while another question is before PDSC Board. It must be made by a member who voted with the prevailing side.

No question can be twice reconsidered, unless it was amended after it's first reconsideration. If an amendment to a motion has been either adopted or rejected, and then a vote taken on the motion as amended, it is not in order to reconsider the vote on the amendment until after the vote on the original motion has been reconsidered.

If anything which the PDSC Board cannot reverse has been done as a result of a vote, then

that vote cannot be reconsidered. This motion cannot be amended; it is debatable or not, just as the question to be reconsidered is debatable or undebatable; when debatable, it opens up for discussion the entire subject to be reconsidered, and the previous question, if ordered while it is pending, affects only the motion to reconsider. It can be laid on the table, in which case, the reconsideration, like any other question, can be taken from the table, but possesses no privilege. The motion to reconsider being laid on the table does not carry with it the pending measure.

**5.06 DEBATE.** No member can speak the second time to a question until every member choosing to speak has spoken. Merely asking a question is not considered as speaking.

When an amendment is pending the debate must be confined to the merits of the amendment, unless it is of such a nature that its decision practically decides the main question.

In debate a member must confine himself or herself to the question before the PDSC Board, and avoid personalities. He or she cannot reflect upon any act of the PDSC Board, unless he or she intends to conclude his remarks with a motion to rescind such action or else while debating such motion.

It is not allowable to impugn the motives of a member, but the nature or consequences of a measure may be condemned in strong terms.

If at any time the Chairperson rises to state a point of order, or give information, or otherwise speak, within his or her privilege, the member speaking must stop debating until the Chairperson has been first heard. When called to order, the member must stop debating until the question of order is decided. If the remarks are decided to be improper, he or she cannot proceed, if any one objects, without the leave of the PDSC Board expressed by a vote, upon which question there shall be no debate.

All members are limited to 10 minutes of discussion or debate unless extended by the Chairperson.

Debate can be closed by the following motions, which are undebatable: to lay on the table or the previous question.

**5.07 VOTE.** Whenever from the nature of the question it permits of no modification or debate, the Chairperson immediately puts it to vote; if the question is debatable, when the Chairperson thinks the debate has been brought to a close he or she should inquire if the PDSC Board is ready for the question, and if no one rises he or she puts the question to vote.

**5.08 CHAIRPERSON'S DUTIES.** The Chairperson's duties are generally as follows:

To open the session at the time at which the PDSC Board is to meet, by taking the chair and calling the members to order; to announce the business before the PDSC Board in the order in which it is to be acted upon; to state and to put to vote all questions which are regularly moved, or necessarily arise in the course of proceedings, and to announce the result of the vote.

To restrain the members, when engaged in debate, within the rules or order; to enforce on all occasions the observance of order and decorum among the members, deciding all question of order, and to inform the assembly when necessary, or when referred to for the purpose, on a point of order or practice.

To authenticate, by his or signature, when necessary, all the acts, resolutions and proceedings of the PDSC Board and in general to represent and stand for the PDSC Board declaring its will.

The Chairperson is entitled to vote on each act of the PDSC Board and on each motion and each question.

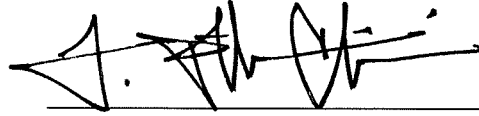
The meetings will be conducted according to the latest edition of the Roberts Rules of Order.

The Chairman, or acting Chairman, shall give reasonable notice of any meeting to all members of the PDSC Board and to the news media at least forty-eight (48) hours prior to a regularly scheduled meeting and at least twenty-four (24) hours before any emergency meeting. All Board members shall be served with written notice of the meeting at their primary offices. Such notice shall include the location, date and time of the meeting, as well as a brief description of any matters which the Chairman has reason to believe will be raised at such meeting.

## **Article 6**

**6.01 COMMITTEES.** Whenever deemed necessary by the Chairperson or the PDSC Board, a committee may be formed. The duties, powers, authority and membership of the Committee shall be set forth in the resolution creating it or as prescribed in writing by the Chairperson or the PDSC Board.

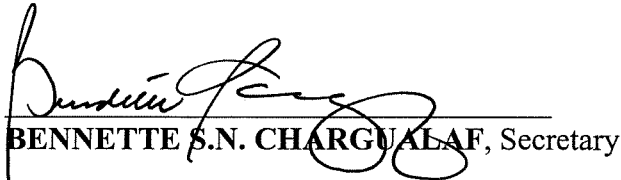
Adopted by the Board of Trustees of the Public Defender Service Corporation on the 22<sup>nd</sup> day of June 2004 and amended on February 22, 2005 at a duly noticed meeting of the PDSC Board.



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**CHIEF JUSTICE F. PHILIP CARBULLIDO,**  
Chairman

Date: 3/23/05

ATTEST:



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**BENNETTE S.N. CHARGUALAF,** Secretary

Date: 3-23-05