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T. Wray McCurdy, Esq.

July 2, 2009

PERSONAL AND CONFIDENTIAL

Nancy S. Forster, Public Defender
Office of the Public Defender
Administration
William Donald Schaefer Tower
6 Saint Paul Street
Suite 1400
Baltimore, MD 21202

Dear Ms. Forster:

Pursuant to Criminal Procedure Article 16-302, the Board of Trustees is responsible to study and observe the Office of the Public Defender. After study and observation the Board is mandated to advise the Public Defender on matters "about the operation of the public defender system". As dictated by statute, the Board has studied and observed the current and past operations of the OPD office. Over the last five months, the Board has met with you, your deputy, and other administrative staff to address various operation and budgetary issues. Specifically, the Board met with you on March 11, 2009 and recommended changes that would, in the strongest opinion of the Board provide additional attorneys and clerical staff to district operations. It is at the district level where case management needs require additional staff. The Board also provided direction that would demonstrate the type of budgetary responsibility and transparency that OPD operations currently lack. The Board requested budgetary justification for many of the current allocation of resources.

The Board is not satisfied with the explanations given nor has any progress toward reorganization of the OPD operations been initiated. It is imperative that the agency's rather staggering growth rate be curbed as overall agency growth far outstrips the rate of caseload growth. In these economic times, all governmental and private agencies must do more than give lip service to sustain the funded expansion rate. An agency must take a long hard look at the applied methodology and streamline the operations that bear fruit while it maintains the essential tools to achieve the agency's core mission.

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The public defender has a primary duty to provide representation of indigent defendants pursuant to Criminal Procedure Article 16-207. The effort to rehabilitate and life-assist individuals charged and convicted with crimes is not a duty or responsibility of the OPD agency. It is not the responsibility of the OPD agency to solve housing problems or DJS placement options, rather the OPD is only to consult and cooperate with other professional groups and to help develop effective means to rehabilitate and correct, not provide these professional services among the OPD staff or "in house". In fact, this duty is no greater than OPD's duty to reduce and discourage the commission of crime. The Board has determined that the OPD no longer consults with other agencies but provides many of these services "in-house". The movement toward providing "in house" other than legal services has directly resulted in the basic function of the OPD to be stretched beyond the limit and now these "in house" services have become intertwined into the fabric of the OPD, all while the District operations suffer and lack sufficient resources. This is not acceptable to the Board.

Pursuant to Criminal Procedure Article 16-203, the Public Defender serves at the pleasure of the Board of Trustees. In consideration of the above, the Board is not satisfied with the current operation and management of the OPD. The Board has decided that pursuant to 16-301(f), that the below changes must occur with sixty days, with verification to the Board. The verification must include details of each change in assignment and/or replacement of staff where applicable.

The changes requested by the Board are;

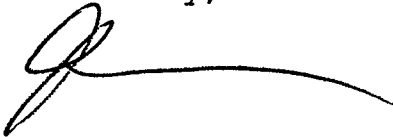
- 1) Disband the Capital Defense Division and disperse the clerical staff and personnel into the District Public Defender offices.
- 2) Disband the Juvenile Defender Division and disperse the clerical staff and attorneys into District Public Defender offices.
- 3) Close Northwest Community Defenders operations and merge them into the traditional district operations.
- 4) Prepare an annual report pursuant to CP 16-401 that breaks down by district the information required by the Annual Report.
- 5) Begin paneling CINA representation in no less than two districts, reassigning CINA attorneys to district operations and administration of CINA paneling operations.
- 6) Reorganize and justify which, if any, social workers are necessary.
- 7) Rehire law clerks as needed.
- 8) Remove District Eight District Public Defender.

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The Board views these eight items as necessary steps toward the refocus of OPD's mission. It is imperative for the OPD to move away from the holistic approach and toward the effective legal representation of defendants who are charged with criminal offenses. In the Board's opinion, this refocusing is crucial to the overall mission of the agency.

The basis of the Board's decisions are the product of one year of study and observation pursuant to statute. These decisions have not been taken lightly. The OPD should not give the opinion and direction of the Board short shrift, as it is the Board's intention to implement these changes. The changes are not negotiable or subject to continued debate. The changes are as stated subject to written verification by OPD. The Board awaits your written verification of these eight items on or before September 1, 2009.

Sincerely,



T. Wray McCurdy
Chair Board of Trustees of the
Public Defender System for the
State of Maryland

TWM/bsb

c.c.: Trustees