



PRIVATE PROBATION SERVICE COUNCIL
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-1831

Meeting Minutes
May 5, 2023
Teams Meeting
Davy Crockett Tower

The Private Probation Services Council met on May 5, 2023, via a Teams Teleconference. The following business was transacted:

COUNCIL MEMBERS PRESENT: Judge Brody Kane, Judge Teresa Nelson, Judge Jason Hudson, Judge Joel Perry and Michael Wright.

COUNCIL MEMBERS ABSENT: Stacey Kelley,

STAFF MEMBERS PRESENT: Roxana Gumucio, Michael Underhill, and Katie Long.

CALL TO ORDER/ROLL CALL

Director Gumucio called the meeting to order at 10:03 a.m. and completed roll call.

NOTICE OF MEETING

Director Gumucio read the notice of meeting into the record as follows: "Notice of the May 5, 2023, meeting of the Private Probation Services Council was posted to the Private Probation Service Council website since November 4, 2022, additionally, this month's agenda has been posted on the website since Friday, April 28, 2023."

STATEMENT OF NECESSITY

Mr. Michael Underhill read the Statement of Necessity into the record. Judges Kane motioned to accept it as written, which Judge Perry seconded. The motion passed unanimously by roll call vote.

AGENDA

Judge Hudson motioned to adopt the agenda as adjusted, which Judge Perry seconded. The motion passed unanimously by roll call vote.

November MINUTES

Upon review of the minutes from the November meeting, Judge Perry motioned to approve the minutes as written. This was seconded by Judge Nelson. The motion passed unanimously by roll call vote.

DIRECTORS REPORT

Robert's Rules of Order

Director Gumucio stated that the Council would need to practice Robert's Rules of Order for their meetings. Judge Hudson motioned to adopt this practice, which Judge Perry seconded. The motion passed unanimously by roll call vote

Self-Sufficiency Hearing

The program had to go before the Government Operations Committee for a self-sufficiency hearing on January 30, 2032. Director Gumucio updated the Council on that outcome.

Budget

Director Gumucio presented the financial numbers as of February 2023 showing the program added a surplus of \$11,711 for the first eight months of the fiscal year. This puts the reserve balance at \$602,816.

LEGAL

Legal Report (presented by Michel Underhill)---

1. PPSC-2022037471

DISCIPLINARY HISTORY: NONE

SUMMARY: This anonymous complaint alleges the following (with no supporting information).

1. Respondent was never officially appointed to provide private probation services in the county by the county commission or the mayor.
2. Respondent owner allegedly involved in asking for inappropriate favors from female probationers in exchange for not violating their probation for unpaid fees and court costs.
3. Respondent owner is having male probationers perform personal work for not violating their probation for unpaid fees and court costs
4. The county is owed millions of dollars in court costs and fines that are not collected by the Respondent in the course of business
5. Respondent owner will not drug test probationers even though law enforcement requests same.
6. Respondent owner was never legally appointed a probation officer in the county even though Respondent writes Violation of Probation (VOP) warrants.
7. Respondent owner was never legally appointed a probation officer in the county even though Respondent writes Violation of Probation (VOP) warrants.
8. Since Respondent/owner was never properly appointed, the cases filed by the owner are thereby illegal and will subject the state of Tennessee to multi-million dollar lawsuits.

The Respondent does not have a previous disciplinary history. This matter was sent out for an investigation and as part of the investigation the probationers' files of the Respondent were retrieved. Counsel attempted to contact the probationers and was unable to procure any evidence to substantiate allegations of utilizing any probationers in an inappropriate manner. No other allegations listed above were substantiated or are otherwise within the scope of the authority vested to this Council. The criminal court/general sessions court clerk provided proof where Respondent was filing file-stamped quarterly reports with the clerk through the end of 2016. When counsel requested Respondent provide file-stamped copies of his quarterly reports for 2017 through 2022, Respondent could not provide same.

RECOMMENDATION: Letter of warning (filing of timely quarterly reports).

DECISION: Judge Kane motioned acceptance, which was seconded by Judge Perry. The motion passed unanimously by roll call vote.

2. PPSC-2022045181

DISCIPLINARY HISTORY: NONE

SUMMARY: This anonymous complaint alleges the Respondent is "not in compliance with the rules and regulations that govern private probation in Tennessee." Apart from the anonymous complaint being global in scope, the anonymous complainant did not provide any further specificity or any information in support of its global allegation.

RECOMMENDATION: Closure.

DECISION: Judge Perry motioned acceptance, which was seconded by Judge Kane. The motion passed unanimously by roll call vote.

3. PPSC-2022045271

DISCIPLINARY HISTORY: NONE

SUMMARY: This administrative complaint alleges the following: the same allegation in #7 of the first anonymous complaint regarding quarterly reports to the criminal court clerk/general sessions court clerk. In addition, this complaint alleges that the Respondent is abusing its power by sending a letter to an individual not on probation on company letterhead with the possible intent to benefit the company or an individual associated with the company in accordance with Tennessee Code Annotated section 16-3-911.

Counsel reviewed Tennessee Code Annotated section 16-3-911 [Public officer or employee of governing authority; benefit from contract with private entity governed by council], which only applies to contracts between the private entity [Respondent] and a governing authority [county/municipality/metropolitan government] and not a private citizen (which was the case with the third party that disciplinary counsel spoke to on the telephone). Thus, this allegation is outside the scope of the Council's statutory authority.

The Respondent does not have a previous disciplinary history.

RECOMMENDATION: Closure, since the Respondent is already receiving a letter of warning regarding the timely filing of quarterly reports to the clerk.

DECISION: Judge Hudson motioned acceptance, which was seconded by Judge Perry. The motion passed unanimously by roll call vote.

4. PPSC-2022046811

DISCIPLINARY HISTORY: NONE

SUMMARY: This anonymous complaint alleges Respondent is not filing a Violation for Probation (VOP) warrant when the probationer does not pay their costs and fines

within one (1) year, providing alleged documentation in support. This allegation is not within the scope of the Council's authority.

RECOMMENDATION: Closure.

DECISION: Judge Kane motioned acceptance, which was seconded by Judge Nelson. The motion passed unanimously by roll call vote.

5. PPSC-2023004081

DISCIPLINARY HISTORY: NONE

SUMMARY: This complaint states and/or restates the following:

1. The county is not receiving the court costs and fine money because Respondent is not doing their job correctly
2. Financial reports are supposed to be filed each quarter to the court clerk and Respondent has gone five (5) years without filing probation reports; Respondent late-filed the five (5) years of quarterly reports on 12-9-22.
3. Complainant believes the reports are not accurate and the numbers are just made up.
4. Respondent is not keeping a log when he meets with people on supervised probation
5. Respondent is using persons on misdemeanor probation to do work on Respondent's personal property (naming a specific individual).
6. Respondent does not perform drug testing.
7. Respondent will not violate a person's misdemeanor probation if someone is arrested.

Regarding allegation #1: This matter is an issue between the county and the probation company providing services as a review of the PROBATION OBLIGATIONS form for the county court probation states that "**court fines and cost are paid directly to the court**" (meaning the court clerk's office). Further, a review of the ORDER OF PROBATION AND OBLIGATIONS of the county General Sessions Court states that "**the Defendant is ORDERED to pay FINES and COURT COSTS to be made to the General Sessions Court Clerk . . .** (the Circuit Court Clerk).

Regarding allegation #2: The Respondent is already being sent a letter of warning on this allegation.

Regarding allegation #3: Counsel has no proof that the filed reports are inaccurate.

Regarding allegation #4: The reports have been filed with the court clerk's office.

Regarding allegation #5: Counsel was unsuccessful in contacting the named individual regarding the veracity of this allegation.

Regarding allegation #6: A review of the PROBATION OBLIGATIONS form for the county states that "**you may be randomly drug tested at your cost**" (and not "shall.")

Regarding allegation #7: A review of the PROBATION OBLIGATIONS form for the county states "**occurrences which may violate your probation are, but not limited to, new arrest**" (and not "shall").

RECOMMENDATION: Closure, since the Respondent is already receiving a letter of warning regarding the timely filing of quarterly reports to the clerk.

DECISION: Judge Kane motioned acceptance, which was seconded by Judge Perry. The motion passed unanimously by roll call vote.

6. PPSC-2023001901

DISCIPLINARY HISTORY: NONE

SUMMARY: This complaint alleges that probationer was unfairly and illegally violated for attending/leaving a homeless shelter that was not a licensed mental health facility and was not ordered by the court.

Respondent states the probationer was discharged from an inpatient treatment center to a homeless shelter because of previous positive drug screens; probationer could not return home due to drug use in the home and the probationer sought relocation to Kansas to continue her drug treatment plan with the court. The probationer was to remain at the homeless shelter until the court could approve same to leave the state. Due to another positive drug screen, probationer was held until another hearing could be conducted on the Violation of Probation Warrant. The court ordered the probationer to comply with her previous treatment plan, which included reporting to the homeless shelter. The probationer again left the homeless shelter, which constituted another violation of probation, and the probationer was taken into custody without bond. Respondent denies any misuse of power against the probationer.

This complaint does not fall within the Code of Professional Conduct/ Conflict of Interest of Regulation 1177-02-.04 and thus is outside the scope of the Council's authority.

RECOMMENDATION: Closure.

DECISION: Judge Kane motioned acceptance, which was seconded by Judge Perry. The motion passed unanimously by roll call vote.

NEW BUSINESS - None

ADJOURNMENT

There being no new business, Judge Perry motioned to adjourn the meeting, which Judge Hudson seconded. Director Gumucio adjourned the meeting at 10:35 a.m.