**DELJIS BOARD OF MANAGERS**

**RULES AND REGULATIONS PUBLIC HEARING**

**Wednesday, October 22, 2014**

Deputy Attorney General Lisa Morris called the DELJIS Rules and Regulations Public Hearing to order at 1:02 p.m. located at the Division of Accounting New Castle Conference Room 820 Silver Lake Boulevard, Dover DE 19901.

Those in attendance included:

**BOM MEMBERS**

Marianne Kennedy JP Court

Leann Summa Family Court

Captain John Potts Newark PD

Deborah Lindell JIC

Marian Bhate PDO

Fred Calhoun NCC PD

Nancy Dietz DYRS

Earl McCloskey DOJ

**PROXIES**

Captain Daniel Hall DSP-SBI

Proxy for Michael McDonald

**STAFF AND INTERESTED PARTIES**

Peggy Bell DELJIS

Lynn Gedney DELJIS

Kelly Knutkowski DELJIS

Ray Sammons DELJIS

Joe Shockley DTI

Lisa Morris DAG

Linda Carmichael Superior Court

**PUBLIC**

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DAG Morris requested the Board of Managers introduce themselves for the record. DAG Morris explained the purpose of the hearing is for the Board to consider adoption of the proposed amendments to the Board’s Regulations. These amendments if approved will become part of the Board’s Rules and Regulations. Pursuant to the Administrative Procedures Act, 29 Del. C. § 10115, notice of proposed amendments to the rules and regulations was published on October 1, 2014 in the Delaware Register of Regulations. DAG Morris introduced the following Board Exhibits for the Hearing:

Board Exhibit 1: News Journal Affidavit of publication of notice of today’s hearing

Board Exhibit 2: Delaware State News Affidavit of publication of notice of today’s hearing

DAG Morris confirmed with the Board’s Administrator that there have been no written comments from the public.

DAG Morris requested that any members of the public who have come to the hearing to comment on the proposed regulations to step forward and share those comments with the Board and advised anyone providing comments to please identify themselves for the record.

**PUBLIC COMMENT**

Ms. Linda Carmichael, the Chief Staff Attorney from Delaware Superior Court, provided the following comments to the Board:

* **In Section 5,** Ms. Carmichael wanted to confirm that current authorized agencies are grandfathered in for the purposes of satisfying Section 5 and do not need to reapply.
* **In Section 6.1**, Ms. Carmichael wanted to confirm that the expenses associated with the changes of SBI and FBI there will be no charge for authorization.

Mr. McCloskey asked if there is a charge right now currently? Ms. Bell responded any criminal justice agency that accesses DELJIS is not charged any fee at the time nor does she believe there is any intent for this to change. Captain Hall Director of SBI confirmed there are no expenses.

* **In Section 6.6, 6.7 and 6.8,** Ms. Carmichael referred to the language about immediate notification and suggested changing the language to “immediately or as soon as practical.”
* **In Section 6.7,** Ms. Carmichael referred to the discussion of a notification when a person or employee is on administrative leave which exceeds 24 hours and that it is a possible problem with FMLA. Ms. Carmichael stated that FMLA is defined under the DELJIS Board Rules and Regulations as administrative leave. Ms. Carmichael gave an example if someone who is out two days a week on FMLA the Board would have to take them off and put them back on take them off and then put them back on.
* **In Section 6.10,** Ms. Carmichael noted the first sentence ends in a preposition.
* **In Section 7.2,** Ms. Carmichael referred to the language about records and it states “Under no circumstances should printed information be maintained in personnel files by any Authorized Agency or in court records by any Delaware court.” Ms. Carmichael noted that court records by any Delaware court are part of Superior Court sentence reports that are not public records but are court records. Ms. Carmichael made the suggestion of adding the language “or in any court public record” would probably satisfy that concern.
* **In Section 7.3.1 and 7.3.2,** Ms. Carmichael referred to the language that states, “...Must follow the destruction protocols used by Delaware Public Archives in accordance with 29 Del. C. §504(b).” Ms. Carmichael stated that the statute requires notification to the public archives to receive consent before destruction. Ms. Carmichael noted there are retention guidelines that each agency is supposed to follow and suggested adding language “as pre-approved retention guidelines” or “pre-approved public archives retention protocol” to avoid contacting Delaware Public Archives every time a document needs to be destroyed.
* **In Section 13.3,** Ms. Carmichael referred to the language “At any hearing, a party may appear pro se or an attorney-at-law duly admitted to practice law in the State of Delaware or by a union representative at his or her own expense.” Ms. Carmichael commented that she was concerned the Board was suggesting a person could have a union representative representing a person before the Board which may cause a problem.

DAG Morris concluded the Hearing with the statement pursuant to 29 Del. C. §10118(a), the public comment period will remain open for an additional fifteen days, and written comments will be accepted by the Board until November 6, 2014. The Board will deliberate on all comments received at its next regularly scheduled meeting.

There were no other additional comments from the public. The DELJIS Rules and Regulations Public Hearing adjourned at 3:00 p.m.