

The Virginia Indigent Defense Commission

Commission Meeting
1604 Santa Rosa Road, Suite 200
Richmond VA 23229
March 23, 2017

Judge Alan Rosenblatt called the meeting to order at 11:05 am. Other Commission members in attendance were Steve Benjamin, Carolyn Grady, Eddie Macon (designee for Karl Hade), Guy Horsley, Professor Henry (Hank) Chambers, and Carmen Williams. Members not present were Senator Richard Stuart, Delegate Chris Collins, David Walker, Professor John Douglass, Judge Hanson, and Kristen Howard. Administrative staff included Executive Director, David Johnson; Deputy Director, Maria Jankowski; and Administrative Assistant, Diane Zubke.

Quorum requirements have been met.

The first order of business is approval of the agenda and minutes.

Mr. Benjamin made a motion approving the agenda and minutes. Ms. Williams seconded the motion. The motion carried.

Mr. Johnson introduced Jason Hodges, our new IT Director.

The next order of business is the budget update.

Ms. Jankowski said the budget is presented in two formats. The first divides the agency into four major service areas. Our largest service area is Criminal Indigent Defense which is the public defender offices; the next is Capital Indigent Defense Services, the capital offices; the third is Legal Defense Regulatory Services, the standards of practice and certification. When the IDC was created, replacing the Public Defender Commission the big substantive change was the creation of the Standards of Practice and requiring any lawyer who wants to do court appointed cases to be certified. There are two employees and an information system. When that was created \$200,000 was added to our budget. The last service area is Administrative Services.

The next set of documents is the same data but in a different format outlining more specific spending.

The last column is the budget balance through the month of February. That includes seventeen pay periods to date with seven more forthcoming.

The line item for short-term disability benefits is -\$109,063. It would appear to be an overage but we did not budget any money in short-term disability benefits because we never know what that may be but is covered by the positive balance under salaries.

Mr. Johnson said we will be able to pay our bills between now and the end of the year.

There was discussion regarding the budget.

Ms. Jankowski said the Budget Committee will be meeting May 9th. This was scheduled with Judge Hanson who is the Chair of that committee. We will be notifying everyone by email. Any member who would like to attend is welcome.

We are asking you today for a vote to grant the Budget Committee approval to approve end of year expenditures.

At the end of the year there are items that need to be purchased that might exceed Mr. Johnson's \$15,000 limit. Normally we ask the Commission for permission, however, the next Commission meeting is in June and we will not be able to get those items paid before the end of the fiscal year. If we can empower the Budget Committee, we can get those items paid within the fiscal year.

Ms. Grady made a motion to empower the Budget Committee to approve any proposed year-end expenditures over \$15,000. Mr. Benjamin seconded the motion. The motion carried.

Mr. Johnson said we are going to ask the Budget Committee to work some money into the budget if we have the funds available to allow us to have some VIDC fellowship positions. This has worked well in the past.

The next item on the agenda is the policy recommendations.

Ms. Jankowski said we are required to review our policies every year. With a new HR Director and a new IT Director they were not prepared to do a full review of our policies. The Fiscal Director did do a review and has made some very minor changes to the travel policy.

Provided is a brief summary of some material changes. Ms. Jankowski asked with the Commission's permission she would like to highlight the material changes. The first is the Executive Director does not need to approve out of state travel. The second is the Executive Director does not need to approve travel if there is a court order unless it is extraordinary. The final is a requirement of carpooling to our VIDC trainings.

On page 2 the yellow highlighted items are what have changed. The rest of the changes are more clarifying language.

There was discussion regarding rental vehicles and fleet vehicles.

There was discussion regarding court orders and travel reimbursement.

Mr. Benjamin made a motion approving the policy recommendations set forth in the meeting materials. Ms. Williams seconded the motion. The motion carried.

The next item on the agenda is renewal of the Executive Director authority.

Mr. Johnson said every three years the Commission is required to reaffirm the authority that has been designated to the Executive Director.

Mr. Benjamin made a motion to reauthorize the powers and duties of the Executive Director as amended. Ms. Williams seconded the motion. The motion carried.

The next item on the agenda is the mission statement.

Mr. Johnson said our current mission statement is more of a list of our duties and responsibilities. We asked the field offices for their input. We would like a mission statement that reflects who we are and what we believe. We came up with three finalists. Out of three, the proposed mission statement was the ultimate choice.

Ms. Jankowski said there were a lot of similarities in all that were submitted. The three we chose were an amalgamation of all of them. At the management conference we asked for input of those three.

There was discussion regarding the mission statement.

Mr. Johnson said there is no deadline or urgency for this. There has been great discussion today with only seven Commission members. He suggested we send this to all Commission members to get feedback and we can discuss further in June.

It was decided that he will send the three mission statements and the original to all Commission members along with points raised today to get their input between now and the meeting in June to discuss.

The next item on the agenda is the training update.

Mr. Johnson said we just had our management conference Monday and Tuesday. It was an interesting and different conference for us. Karen Michael presented, she is a labor law attorney and a dynamic presenter. She talked about social media for two hours and gave a healthy and horrifying presentation on how attorneys are getting themselves in all kinds of trouble. It reinforced our folks that they are representing us at all times.

There was a long exercise on how we can evaluate the process in our offices to do better with our clients which was extremely helpful.

Mr. Johnson gave an update on certification training. We partnered with CAIR on immigration resources. We are trying to do more for the private bar.

Ms. Jankowski added 780 private court appointed lawyers received 277 hours of free CLE from us this fiscal year. This includes the ten hour certification training we do every month.

Mr. Johnson continued. We have boot camp coming up in May. We tweaked it a bit in December but May is the big rewrite.

We have ten late day lectures scheduled this year.

Our certification training will be going live three times a year starting this summer.

We have ramped up the training we offer our public defenders.

A couple of our public defenders are being called upon to speak at state wide trainings.

In the back of the meeting materials is the training newsletter that we just rolled out.

The next item on the agenda is closed session.

Ms. Grady moved that the Virginia Indigent Defense Commission convene in closed session to discuss personnel issues pursuant to the personnel exemption contained in §2.2-3711(A) (1) of the Code of Virginia.

This meeting will be attended only by members of the Commission, however, pursuant to §2.2-3712 (F) of the Code of Virginia, the Commission also requests the attendance of the Executive Director, the Deputy Director, and Jim Hingeley because it is reasonable to

believe that their presence will aid the Commission in its consideration of the matters that are the subject of the closed session. Mr. Horsley seconded the motion. The motion carried.

After reconvening in open session, Ms. Grady called for a roll-call vote asking that each Commission member certify that, to the best of his or her knowledge, during closed session the Commission heard, discussed, or considered only public business matters that were lawfully exempted from open meeting requirements under the Freedom of Information Act.

Each member so certified.

The next item on the agenda is informational items/other business.

Mr. Johnson recognized Jim Hingeley as the winner of this year's Shaping Justice Award for Lifetime Achievement in Public Service from the University of Virginia.

There is a letter we wrote to Eric Olsen who is the president of VACA. This letter came about because of the Discovery reform bill that died. Rather than to wait until next General Assembly session we invited VACA for an open invitation for discussion. The recommendation of the discovery committee passed in the Senate 39-1 and died in House Courts.

The State Bar has formed a criminal discovery task force and asked Mr. Johnson, Doug Ramseur, and Bonnie Hoffman to be on this committee.

Another concern is the lack of defense representation on the Sentencing Guideline Commission. As of the first of the year there are no defense attorneys but three prosecutors and more judges who are former prosecutors. The next two appointments happen to be governor appointments and Maria has requested those two appointments be defense attorneys, public defenders, or both.

Mr. Johnson suggested to the Virginia criminal justice conference to study this issue and possibly propose legislation. He believes in September this group will propose change to the statute that requires defense representation.

Mr. Johnson said Matt Foley wrote a letter to the editor in Arlington addressing the concern that prosecutors are waiving jail time on marijuana charges thus depriving defendants counsel. It is a great letter and good for Matt for standing up. He got some good attention for it.

There was no further business.

Ms. Grady made a motion to adjourn. Mr. Horsley seconded the motion. The motion carried.

The meeting adjourned at 1:00 pm.

Respectfully Submitted:

Approved By:

Diane D. Zubke, Administrative Assistant

David J. Johnson, Executive Director