

The Virginia Indigent Defense Commission

Commission Meeting
1604 Santa Rosa Road, Suite 200
Richmond VA 23229
March 20, 2018

Judge Alan Rosenblatt (ret.) called the meeting to order at 11:10 am. Other Commission members in attendance were Judge Edward Hanson (ret.), Kristen Howard, Professor Henry Chambers, Professor John Douglass, Jim Hingeley, Steve Benjamin, Carrie Grady, Guy Horsley, Karl Hade, and David Walker. Members not in attendance were Delegate Chris Collins, Senator Richard Stuart, and Carmen Williams. Administrative staff included Executive Director, David Johnson; Deputy Director, Maria Jankowski; and Office Manager, Diane Zubke.

Quorum requirements have been met.

The first two orders of business are approval of the agenda and minutes.

Mr. Benjamin made a motion to approve the agenda and waive the reading of and approve the December 7th meeting minutes. Ms. Grady seconded the motion. The motion carried.

The next order of business is the budget update.

Ms. Jankowski said the year-to-date budget is in the meeting materials in two separate forms; the agency in its entirety, followed by each section: Public Defenders, Capital Defenders, Legal Defense Regulatory Services, and Administration.

The new Fiscal Director has presented this in a slightly different format. She added a column that shows the year-to-date percentage of what has been spent. There is a row at the end of each section that divides our major spending areas. This is divided up in three major areas of spending: salary and benefits, operating costs (where rent is located), and capital outlay. We are well on track and have enough money to get through the year.

There was discussion regarding percentages, variations, turnover, and pay periods.

We have gone through seventeen pay periods with seven remaining. This is the biggest chunk of our budget.

As a reminder the next Commission meeting is June 19th and we will need certain expenditures to be approved prior to that.

We will be asking that you delegate to the Budget Committee the authority to approve any end of year expenditures for fiscal year 2018. If we have needs at the end of the year that are not previously covered in the budget, and are above Mr. Johnson's authority, we need to get that done and get that money spent in this fiscal year.

Mr. Johnson added we have done this historically at the end of the fiscal year. We cannot pay for something until we have received it.

Professor Chambers moved that the Commission delegate authority to the Budget Committee to approve any and all end of year expenditures for fiscal year 2018 that would otherwise require full Commission approval. Mr. Benjamin seconded the motion. The motion carried.

Ms. Jankowski said the Budget Committee will meet April 24th and everyone is invited to attend. We picked that week because we hope the Commonwealth of Virginia will have a budget by April 11. Even if it does not we will need to consider next year's budget.

The next item on the agenda is the policy update.

Ms. Jankowski said there is a summary of changes in the meeting materials that have been reviewed and recommended by the Policy Committee. Each department has reviewed their area of expertise. We then ran the suggestions by the Policy Committee. All the proposed changes are contained in the binders.

In addition to those, Mr. Walker suggests that in Section 3.5 Workplace Harassment the first paragraph, second line, to remove the word "unlawfully".

There was discussion regarding review of the policies.

Mr. Benjamin moved to accept Mr. Walker's addition. Judge Hanson seconded the motion. The motion carried.

Judge Hanson made a motion to accept the additional changes as recommend by the committee and outlined in the materials. Mr. Walker seconded the motion. The motion carried.

Finally, Ms. Jankowski said the committee is looking for guidance on the last two paragraphs of Section 3.5. Karen Michael is going to do a two hour presentation on sexual harassment for all of our managers at the management conference next month.

The first addresses "Knowledge of the Supervisor". The committee supports the language as it applies to a supervisor. The question is regarding the obligation of the non-supervisor and complainant.

The way the policy reads now is it puts the duty on all employees to report what they know. We are looking for direction on whether placing the responsibility on all employees is the best practice.

The committee was divided on this.

There was discussion as to why this is limited to sexual harassment and employees reporting what they think might be harassment.

The paragraph in question currently reads:

Reporting Requirements: Commission employees including management, have a duty to report sexual harassment as soon as practicable. Complaints by employees in field offices should be filed with the Public Defender. Complaints by employees in the administrative office or by employees against a Public Defender should be filed with the Executive Director. Employees may utilize the grievance procedure from this policies and procedures manual. Employees may also contact the State Office of Equal Employment Services or the Federal Equal Employment Opportunity Commission.

Ms. Jankowski said we will discuss the best practice with Karen Michael at the management conference next month.

There was further discussion regarding sexual harassment and changing the word complaint to report.

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

Ms. Jankowski said last year the authority was raised to \$25,000. This is a request to renew his authority.

Ms. Grady made a motion to renew Mr. Johnson's authority. Judge Hanson seconded the motion. The motion carried.

The next item on the agenda is the discovery public comment letter.

Ms. Jankowski said in the meeting materials is a draft letter to provide comment on the Supreme Court's request for public comment on discovery, along with the proposed rules.

A few years ago you spent a lot of time on a letter that went out in support of the proposed change in discovery rules. Ms. Jankowski used that same letter and made updates to make it accurate and made sure it met with this year's proposed rules.

Mr. Johnson added this was a lengthy process when we met to work on the proposed changes.

There was discussion regarding the draft letter. A few minor adjustments were suggested.

Ms. Grady made a motion to approve the discovery letter as amended. Judge Hanson seconded the motion. The motion carried with Mr. Hade and Ms. Howard abstaining.

The next item on the agenda is the training update.

Mr. Johnson said in the meeting materials is the agenda for the upcoming management conference. The conference includes our deputies and senior supervising attorneys. This year, as Ms. Jankowski mentioned, we have emphasis on workplace harassment.

We are also rolling out our new employee evaluations and the employee work profiles.

There is a Legal Training Update in the meeting materials that shows upcoming training.

The new trial attorney boot camp is coming up in May. We have this every six months.

Live certification training is this week.

The next item on the agenda is closed session.

Judge Hanson 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 and Deputy Director 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. Ms. Williams seconded the motion. The motion carried.

After reconvening in open session, Judge Hanson 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.

There was no further business.

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

The meeting adjourned at 12:55pm.

Respectfully Submitted:

Approved By:

Diane D. Zubke, Office Manager

David J. Johnson, Executive Director