

## **The Virginia Indigent Defense Commission**

Commission Meeting  
1604 Santa Rosa Road, Suite 200  
Richmond VA 23229  
June 19, 2018

Judge Alan Rosenblatt (ret.) called the meeting to order at 11:05 am. Other Commission members in attendance were Judge Edward Hanson (ret.), Kristen Howard, Professor Henry (Hank) Chambers, Jim Hingeley, Steve Benjamin, Guy Horsley, Karl Hade, Carmen Williams, and David Walker. Members not in attendance were Delegate Chris Collins, Senator Richard Stuart, Carolyn Grady, and Professor John Douglass. 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 March meeting minutes. Judge Hanson seconded the motion. The motion carried.

The next order of business is election of officers.

Judge Rosenblatt said the Executive committee met this morning to consider the chair and vice chair for next fiscal year.

Mr. Johnson reported currently Judge Rosenblatt is chair and Professor Douglass is vice chair. Professor Douglass does not wish to continue as vice chair. The committee was advised Judge Rosenblatt is willing to continue as chair and the committee nominated Carolyn Grady to be elected as vice chair.

Mr. Benjamin moved that the Commission approve Judge Rosenblatt to continue to serve as chair and Ms. Grady to serve as vice chair. Mr. Horsley seconded the motion. The motion carried.

The next item on the agenda is the investigator reclassification.

Ms. Jankowski said we have five offices with only one investigator and is an investigator I. We will be asking to reclassify these positions as investigator II's. There is an additional office, Leesburg, that currently has two investigators, a I and a II. The I is in the Warrenton office which is basically a separate office. We are asking to reclassify that position to a II.

There are two compelling reasons we are doing this. They are the only investigator I's in our system who are exempt employees. As an exempt employee you can be asked to work over forty hours so there is a fundamental fairness piece to this. This is also a client representation piece. This is the only investigator in these offices and that investigator is doing the investigating for every case in that office.

The cost of this is just under \$50,000 as an ongoing cost for all six offices and all six positions. The actual salary difference between an investigator I and II is approximately \$8000. For your edification we have thirty three investigator II's across our system, nineteen investigator I's. All of the other investigator I's are in offices with multiple investigators.

There was discussion regarding investigators.

Judge Hanson moved to reclassify investigator I positions in Pulaski, Bedford, Charlottesville, Martinsville, Suffolk, and Leesburg to investigator II positions. Mr. Benjamin seconded the motion. The motion carried.

The next order of business is the budget update.

Ms. Jankowski said in the meeting materials is a spreadsheet of the FY18 budget. The first page is how we are wrapping up the year. The first column is our original budget, the second column is where we actually are year-to-date, the next is our June forecast and includes one more pay period. The next column is the total forecasted for this fiscal year, and then our anticipated budget balance.

Included in this forecast we are going to be requesting your approval to prepay some mandatory bills for next year. The first is our VITA bill; this is our telecom cost and is \$216,000 this covers all of our offices for the entire year. The other bill we prepay is Lexis Nexis; this is the research tool for all of our attorneys and is \$74,690. These exceed Mr. Johnson's spending authority.

Judge Hanson made a motion authorizing the Executive Director to prepay VITA telecom charges and Lexis Nexis legal research license fees for FY19. Mr. Hingeley seconded the motion. The motion carried.

Ms. Jankowski said included in the meeting materials is a copy of the Virginia state budget and how it relates to the Indigent Defense Commission. We match our budget with what the General Assembly proposed. We did not know what that was until we actually had a budget.

We requested money from the General Assembly for a computer refresh and we have received it.

The FY19 budget is presented with a history of FY15, 16, 17, actuals. FY18 is what is forecasted. FY19 is what we will be requesting you to vote on is a proposed budget. Just as a reminder a good ninety percent of our budget is not discretionary; it is personnel salaries, benefits, and all that entails. Then with our leases added in we do not have much left for discretion.

This budget proposed to you has been reviewed by the Budget committee and meets with their approval. It includes the money for the computers, the Gideon's Promise Fellows training, the Gideon's Promise training for our people to attend, the Indigent Defense Commission Fellowship program, and additional training for our attorneys.

You are all aware we received a grant to pilot a text message notification system to our clients. We budgeted a little bit of money in here to continue that program if once the grant runs out.

Ms. Jankowski added she likes to highlight anything that is different from the previous year. Most of our budgeting is done based upon what we have spent in that line item in the past. There is a highlighted line item in the documents for payroll and benefits to give you an idea of how much is related to payroll and other benefits.

There was discussion regarding the state budget.

Judge Hanson made a motion approving the budget. Mr. Walker seconded the motion. The motion carried.

The next item on the agenda is the harassment policy.

Ms. Jankowski said when we looked at our policies in March the Commission instructed staff to do homework on workplace harassment, at the time it was the sexual harassment policy. We spoke with Karen Michael who directed us to VRS (Virginia Retirement System) as having a good workplace harassment policy. Our HR director also looked at what DHRM (Department of Human Resource Management) has. We looked at DHRM, VRS, used Ms. Michael's guidance and brought them together. We then sent it to Professor Chambers who gave some very helpful feedback and what we have is in the meeting materials.

There was discussion regarding harassment.

Mr. Benjamin said there are four distinct categories of harassment and suggested rewriting the paragraph to the following:

Harassment is any unwelcome verbal, written, or physical conduct that has the purpose or effect of creating an intimidating, hostile, or offensive work environment; has the purpose of or effect of unreasonably interfering with an employee's work performance or shows hostility or aversion towards a person or affects an employee's employment opportunity to compensation on the basis of race, sex, color, national origin, sexual orientation, gender identity, age, veteran status, political affiliation, genetics, or disability.

There was further discussion regarding harassment.

Under prohibited conduct, harassment should read: VIDC forbids harassment of any employee, applicant for employment, or volunteer.

Mr. Johnson said every employee has taken the DHRM training in addition there is training during the management conference.

Ms. Jankowski said annually every employee must take an IT security training and at the end is an acknowledgement of receipt that is attached; they have to click and sign off on it. If that training is not taken in a certain amount of time they get locked out of their computer.

Harassment discussion continued.

Ms. Jankowski said some organizations have a complaint process but we do not have that. A grievance can be filed, we have a formal process but we do not have a complaint process.

There was confusion when we looked at this between a complaint and a grievance. We changed our grievance process to take out the word complaint.

Discussion continued regarding harassment.

It was determined this be worked on further and will finalize at the next meeting in September.

Ms. Jankowski said she would look at the overall policy. She believes somewhere in the policies is language that we want to foster a healthy, good, supportive, work environment.

The next item on the agenda is the training update.

Mr. Johnson said as mentioned earlier we had work place harassment training at the management conference. We hosted boot camp in May. We are continuing to work on the agenda and are using our senior trial attorneys as faculty. We have three senior trial attorneys whose specialty is training.

We sent three of our senior trial attorneys to an NAPD (National Association of Public Defenders train the trainer program. We had our Appellate Conference May 4<sup>th</sup>.

In the meeting materials is a Deficit Provision Acknowledgment Form. We provide this to you every year to certify we do not have any debt.

You might have noticed coming in to the office we put the Mission Statement on the front wall.

A couple weeks ago we did the state's employee appreciation week. We gave each office, depending on their size, a hundred or two hundred dollars. Most of the offices participated with baseball games, cook-outs, or lunches.

Next year we are going to do this a month before, on the anniversary of the Gideon Decision and make it specific appreciation for all our employees.

The evaluation process is underway.

Cynthia Dodge retires July 1<sup>st</sup>. We conducted the first round of interviews. Maria and I along with two of our public defenders were on the panel. We have three finalists who we will bring back for a second interview Friday.

Ms. Jankowski said the annual conference is going to be Tuesday and Wednesday October 23<sup>rd</sup> and 24<sup>th</sup> in Williamsburg.

Ms. Howard thanked Ms. Jankowski and Mr. Johnson for help with the DNA notification project that her office has been working on for over a decade. The Richmond public defender office did a great job helping to clear out some who were difficult to locate. They are continuing to increase our numbers meeting due diligence for the project and should be done and have a report this year.

There was no further business.

Judge Hanson moved to adjourn. Mr. Hade seconded the motion. The motion carried.

The meeting adjourned at 12:35pm.

Respectfully Submitted:

Approved By:

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Diane D. Zubke, Office Manager

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David J. Johnson, Executive Director