

The Virginia Indigent Defense Commission

Commission Meeting
1604 Santa Rosa Road, Suite 200
Richmond VA 23229
December 11, 2018

Judge Alan Rosenblatt (ret.) called the meeting to order at 11:05 am. Other Commission members in attendance were Professor John Douglass, Carolyn Grady, Kristen Howard, Professor Henry (Hank) Chambers, Jim Hingeley, Guy Horsley, Eddie Macon (Designee for Karl Hade), and Judge Hanson. Members not in attendance were Steve Benjamin, Senator Richard Stuart, Delegate Chris Collins, David Walker, 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 order of business is approval of the agenda and minutes.

Ms. Grady made a motion approving the agenda and previous meeting minutes. Mr. Hingeley seconded the motion. The motion carried.

The next order of business is the budget update.

Ms. Jankowski said the budget is laid out for you in the meeting materials. The first spreadsheet is the entire agency. The first column is the approved budget, the next column is where we are today in actual spending, and the final column is the balance. We are one pay period shy of half way through the year. This includes the retention bonuses. As a reminder the Commission wanted to provide these last fiscal year but wanted to wait until the state had a final budget.

Mr. Johnson added that the qualifications for the retention bonus were an employee had to be with the agency for three years and had to sign a retention bonus agreement that stated they would stay with the agency for another year. We had three hundred eighty five qualified employees; ninety eight point two percent signed the retention bonus agreement. Seven people declined and another three had already put in their paperwork for retirement.

The reaction at the annual conference was everyone was very pleased.

There was discussion regarding the seven who did not sign the agreement.

Ms. Jankowski said the way the budget is laid out there are a few different areas: Criminal Indigent Defense Services, Capital Indigent Defense Services, Legal Defense Regulatory Services, and Administrative Services. It is the same data in a different format. There is a new format our Budget and Finance Director thought you might find helpful. It is a year over year comparison and reflects where we were last year and where we are this year. It is all the same information just in a different format and a different perspective.

We are on track with the budget after paying the bonuses.

There was discussion regarding the budget.

The next item on the agenda is the Personnel Committee recommendations.

Mr. Johnson said every year he does performance evaluations on the twenty nine public defenders. The cycle runs August to August. These include notes from the department heads here, notes throughout the year, and their self-evaluations. He meets with all twenty nine chiefs in September and October. This year he met with many of them when he visited their offices. We were able to cut down the number of people we meet with during the annual conference.

One thing that has changed in the evaluation process is we now do attorney surveys where we asked about their supervision, training, their office, their boss, and morale. This has given us a lot more information and more positive feedback in their evaluations.

This year we had twelve exceptional ratings, ten exceeds expectations, and seven meets expectations. Of the seven meets, four are new, that is as high as they get the first year. During the Personnel Committee meeting we discussed the other three meets expectations we determined it would not be necessary to go into closed session. Nothing specific to report and we will be following up with some items.

The Personnel Committee members are John Douglass, Guy Horsley, Jim Hingeley, Carmen Williams, and Carrie Grady.

Mr. Johnson said by statute we are required to have four capital offices. In 2002 and 2003 the offices were set up in regions; central, northern, southeast, and southwest.

The southwest office covers a huge area and in the past several years there have been no capital cases coming out of the southeastern region. We have been giving them cases from other jurisdictions.

We are proposing to shuffle the jurisdictions a little to alleviate some of the workloads in the southwest.

Ms. Jankowski said from the Supreme Court's website she was able to get a list of jurisdictions where something capital had been filed. The Supreme Court advised when the Supreme Court reports something capital, it could be actual capital or it could be attempted capital which is completely different. This is not a fully accurate representation of where the capital cases are arising. She then reached out to the four capital offices and integrated their input to find out where the capital cases are coming from. This list is over-inclusive.

The map in the meeting materials is highlighted boundaries. The yellow highlighted are the present boundaries, the same jurisdictions that are listed in the meeting materials. Orange is a proposed boundary change. The two most noteworthy changes are Danville would be given to the southeast capital office and maybe we rename it south. The southwest (west) office would lose Danville. Danville is a heavily charging jurisdiction.

Right now, Steve Milani, the southwest capital defender has stated he cannot take another case. He has to drive as far west as Tazewell. He spends a lot of time on the road.

The proposition is for central to give up Bedford to southwest and southwest would give up Danville to southeast.

Mr. Johnson added many times the capital clients are not housed locally but in a regional jail somewhere. After the initial flurry of contact the case might go on for two years and they make sure the client is visited every week.

Ms. Jankowski said this proposed map would give southeast basically south side in an effort to more fairly balance out the caseloads.

There was discussion regarding the boundaries.

The other jurisdiction that is kind of an outlier is Harrisonburg and Rockingham as they are not geographically close to anyone. They will charge if the case is warranting.

There was discussion regarding realigning the capital districts and relocating an office to a more central location.

Mr. Johnson said when the lease is up we will take a look at exploring a new location.

Ms. Jankowski said if we miss something there is no reason we cannot revisit again in March or June. None of this is by code.

We will be sending out a letter to the chief judges in these jurisdictions.

The next item on the agenda is the training update.

Mr. Johnson said last week we had thirty attorneys here for boot camp. This was a bigger class than usual this time of year. We had folks from the field offices serve as faculty. The energy level was great for a full week long program.

In January Gideon's Promise is having their mid-winter program. We are sending twenty five lawyers, six for the leadership program, ten for the trainer development program, and nine for the core program which is a three year commitment where they go back in August and every six months.

Training is very busy, actually busier than usual.

Our annual conference was in Williamsburg at the Double Tree Hotel in October and the feedback was so good we will be going back next year. The hotel gave us discounts if we return next year. It was a great location. Several members of the Commission attended portions of it.

There was discussion regarding the annual conference.

The next item on the agenda is other business.

Ms. Jankowski said we have a conflict with the December 2019 Commission meeting and boot camp. One of the challenges we have is that we have boot camp in December; the new attorneys get their bar results the end of October and we do certification and boot camp shortly thereafter. We have conflicted the last two or three years with many of the attorneys needing to leave to go to the Supreme Court to get sworn in. Our training department will wait until we schedule the Commission meeting and they schedule boot camp around it. We have a conflict because boot camp has been the same week as swearing in every year. We would like to reschedule the Commission meeting to either December 3rd or the 17th.

Judge Hanson moved to hold the Commission meeting December 17th. Ms. Grady seconded the motion. The motion carried.

Ms. Jankowski said in the meeting materials is a certification trends chart. In the September meeting you voted on the annual report. Within the annual report one of our statutory mandates is to report certification updates; number of attorneys certified to represent folks, juvenile certified attorneys, misdemeanor, and felony certified attorneys. We have to report that to the General Assembly.

Our certification attorney said sometimes attorneys request to be taken off the list because they have changed positions and can no longer take court appointed cases. More often than not it is because they are simply not renewing their certification. Because they are not renewing we do not know why.

Mr. Johnson said we did see an increase when the market crashed.

Ms. Jankowski said there are about 2000 court appointed attorneys and includes public defenders.

There are fewer people on the capital court appointed list than there were five years ago. There was discussion regarding court appointed attorneys.

Ms. Jankowski said in the meeting materials is the VIDC 2018 Re-entry Report. This is provided to the Secretary of Public Safety who reports it to the Governor. This is a statutory mandate. There are a number of state agencies who have to report on re-entry. The overall report may be forty-fifty pages; our part is about twenty five of those pages and the information is received from the twenty five public defender offices. It was pointed out that Pulaski is in there twice. We are providing this to you because every year when this information comes in and has to be reported out, Ms. Jankowski is overwhelmed and in awe of the work beyond just representing someone in court that the public defender offices are doing. This is really amazing and wonderful. She is very impressed and taken aback by how seriously the leadership in our offices takes the work they do and commitment to their clients. Please read this if you have some time.

A lot of this work is done by our mitigation specialists previously called sentencing advocates. It cannot be understated how much work those folks do. Actually on Sixty Minutes Sunday night one of our mitigation specialists was profiled because in a previous life she had been with DJJ (Department of Juvenile Justice) and worked with a young gentleman who is now an opera singer and is highly accomplished. He was very ill behaved as a kid. He talks about how much a difference she made in his life. She is our Staunton mitigation specialist. His name is Ryan Speedo Green.

Mr. Johnson said the re-entry is trying to do more than just say good bye to people in court and try to keep them from coming back.

Ms. Jankowski said we have a budget request. We have asked the Department of Planning and Budget to ask the Governor if we could hire Paralegals for the first time. This would be positions we have never had before. All but three of our offices have one mitigation specialist. If you are a criminal defense attorney with three hundred plus cases you are pretty busy and if you are in an office with only one mitigation specialist you are probably not touching all your clients. The investigators are mainly doing fact investigation. The request for paralegals came because the amount of work generated by body worn cameras. Our offices are reporting upward of fifteen extra hours per person per week mainly because of the volume of footage.

The request is for thirty one paralegal positions.

Mr. Hingeley said this week Virginia Lawyers Weekly announced the winners of the unsung hero awards and Cristal Sowder who is the office manager in the Charlottesville public defender office was one of the recipients of this year's award in the category of firm administrator. This is a great honor and it is very nice to see support staff being recognized across the state in a legal publication. Cristal was the first employee he hired in that office in 1998. She has been going strong since then and is still going strong. This will be featured in the December 24th issue.

There was discussion regarding Discovery and body worn cameras.

There was no further business.

Judge Hanson moved to adjourn. Ms. Howard seconded the motion. The motion carried.

The meeting adjourned at 12:10 pm.

Respectfully Submitted:

Approved By:

Diane D. Zubke, Office Manager

David J. Johnson, Executive Director