

The Virginia Indigent Defense Commission
Commission Meeting
1604 Santa Rosa Road, Suite 200
Richmond VA 23229
September 15, 2020

Ms. Carolyn Grady called the meeting to order at 11:01am. Other Commission members in attendance were Steve Benjamin, Nick Braswell, Professor Hank Chambers, Delegate Charniele Herring, Professor John Douglass, Artisha Gregg, Karl Hade, Guy Horsley, Judge Alan Rosenblatt (ret.), David Walker, and Carmen Williams. Member not present was Senator Creigh Deeds. 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.

Delegate Herring moved to approve the agenda. Judge Rosenblatt seconded the motion. The motion carried.

The next item on the agenda is approval of the June 9th meeting minutes.

Judge Rosenblatt made a motion approving the minutes. Ms. Williams seconded the motion. The motion carried.

The next item on the agenda is the Mission Moment.

Mr. Johnson recognized Webster Hogeland who retired from the Bedford Public Defender office September 1st. Webster opened that office in 1989. This office is small but very busy. He moved to Bedford from the Roanoke office and in July 1989 he became the public defender. Bedford is our smallest but one of our absolutely strongest offices. We invited him here today to thank him one last time for his service and to wish him well for a long and happy retirement.

Webster said he appreciated being invited to this meeting. He feels confident in leaving his office of four attorneys in competent hands to his successor, Mike Lonchar who was his deputy for five years.

He thanked Judge Rosenblatt and Mr. Johnson who both shepherded this agency in a very effective way and he's proud of the IDC as it is right now. He thanked the Commission as well.

Judge Rosenblatt said Webster really does make the trains run on time. Bedford is a small but extremely busy office. He is sure he left that office in good hands.

Ms. Grady said kudos to Webster for doing that job for 31 years. There aren't many folks who have the same power and balance in life to do it and she applauds him.

The next item on the agenda is scheduling.

The 2021 meeting dates are:

March 16

June 15

September 14

December 14

Judge Rosenblatt moved to approve the 2021 meeting schedule. Ms. Williams seconded the motion. The motion carried.

The next order of business is the budget update.

Ms. Jankowski said the fiscal year just started July 1st so there is not much to report for FY2021. We wrapped up last fiscal year, 2020, with a slight surplus.

Our combined carryforward is just above \$750,000. A good portion of that is the computer loan. DPB (Department of Planning and Budget) is aware.

The good news is we were able to save a substantial amount of money when we stopped all training. General travel was reduced as well. And because the new Prince William office was only salary funded and not everything else it takes to open a new office, we were able to get ahead of some of those costs. We were able to purchase the computers for Prince William and other important items so when that office opened July 1st we were able to pay for some of those necessary costs out of our savings from FY2020.

There was discussion regarding costs associated with Covid.

Ms. Jankowski welcomed Mr. Braswell who just joined the meeting.

There is a vacancy in our southeast capital office. We would like to reallocate that position and move it to one of our public defender offices. Because the capital defenders are paid at a higher level than an entry level public defender we can fund a full-time APD I and with the residual take a part time position and make it full-time in one of our other offices.

There was discussion regarding the vacant position in the capital office.

Professor Douglass moved that the Commission reallocate an assistant capital defender position in the southeast capital office to other offices based on need as determined by the Executive Director. Mr. Walker seconded the motion. The motion carried.

The next item on the agenda is the procurement policy.

The requested changes do not change Mr. Johnson's spending authority which is up to \$25,000. Anything more than that must be approved by the Commission or we incorporate it into the budget that is brought to the Commission in June.

- Small Purchase Credit Cards (SPCC) can now be used for purchases of \$10,000 or less, increased from \$5,000 or less. (page 6)
- Purchases \$10,000 to \$30,000 has been expanded to \$10,000 to \$100,000 requiring 3 bids or offers and the next subsection is over \$100,000 requiring a sealed Invitation to Bid (page 7)
- The limit for Sole Source written quote has changed to \$50,000 in section 1.3; however, this will still require Commission's approval over \$25,000 (page 7)
- Non - competitive procurements for conference services has increased up to \$100,000, increased from \$30,000 (page 8)

For the new Commission members, a good eighty to ninety percent of our budget is personnel costs. The second largest cost is rent on our thirty-plus commercial leases. The other purchases are day-to-day expenditures and similar to a medium size law firm and we have our conferences. Our conferences are never that expensive.

There was discussion regarding the changes.

Mr. Horsley made a motion approving the changes to the VIDC procurement policy as recommended. Ms. Grady seconded the motion. The motion carried.

The next item on the agenda is the annual report.

Ms. Jankowski said in the meeting materials is the proposed 2020 annual report that was emailed to everyone. There is usually an appendix that is included with this which is a comparison of Virginia's payment for court appointed attorneys with the fifty states. This will be emailed to everyone after today's meeting.

We have seen a dip in our case loads due to the pandemic. We had been averaging just over 7000 cases per month. At the slowest point during Covid we were down to about 3000 cases per month. In FY2021 we are already tracking about 6000 cases a month. It is still not pre-Covid but we are seeing the numbers go back up.

In addition to sending the fifty-state comparison, Ms. Jankowski will also send an outline of the case load and charges handled by each public defender office for FY2020. Keep in mind those numbers are artificially low because of Covid.

There was discussion regarding the annual report.

Mr. Walker made a motion approving the annual report as amended to include fiscal year in the title. Mr. Horsley seconded the motion. The motion carried.

The next order of business is the Executive Director update.

Mr. Johnson said we have had people step up during the pandemic the last six or seven months. While things slowed down for the offices, the administrative office was extremely busy with meeting the offices needs, IT, training, and HR.

Several years ago, the Commission approved a new Immigration resource attorney position which has paid big dividends. Amanda Indorf is our Immigration resource attorney, she does training for all of the offices on immigration consequences and what they need to know. She also provides consults in any cases involving a non-citizen. In less than two years she has consulted on over 400 cases with our offices.

Last year we hired an Equity, Diversity, and Inclusion attorney, Amari Harris who is turning out to be fantastic. He has been very involved in staffing our Prince William office.

These were two positions we asked the Commission for and both have turned out great.

Prince William, Henrico, and Chesterfield counties were three large jurisdictions without public defender offices. We now have one in Prince William.

For the new Commission members, the fact that there is a Prince William office is a minor miracle and the request to open this office was led by the faith community in Prince William. This office opened with fifteen percent salary supplements from the locality. We hired Tracey Lenox as chief public defender.

Ms. Lenox comes from the private bar and was actually president of the local bar association. She has worked closely with Mr. Harris and Mr. Johnson in the hiring of attorneys. This office is opening with really strong diversity and experience. At this point ninety percent of the attorneys are hired. Some will not start until after the bar results. They started accepting cases September 1st. She is hopeful to have all of her support staff hired by November and working at full capacity by the first of the year.

It is a big undertaking to open an office from the ground floor and especially in the age of Covid.

Last month our Staunton office was flooded with six feet of water. It was a rain cell that turned the downtown into a river. With heroic efforts by the public defender and his deputy they were able to pump out some of the water and the office never closed.

Mr. Lonchar is working closely with Mr. Harris to hire a deputy for the Bedford office.

This is annual performance evaluation time. We have formal evaluations on all employees and each chief does them for all the employees in their office. This is a complex year-round performance management procedure. Mr. Johnson evaluates the thirty chief defenders.

Mr. Johnson normally visits about half of the offices and the other half during annual conference. This year that is not possible. He has visited with a few people in person and some virtually. At this point he has met with twenty-one of the twenty-nine public defenders. Hopefully the other eight will be done before the Personnel Committee meeting on the 22nd of September. This will be an in-person meeting and we will social distance.

When the Personnel committee meets we go through all of the performance evaluations for the public defenders. In summary form first then any issues in detail. The committee makes any determination that should be brought to the full Commission.

Mr. Johnson said that any Commission member is welcome to attend any sub-committee meeting even if not appointed to that committee.

There was discussion regarding the Prince William office.

Mr. Johnson said there are twenty-four attorneys in the Prince William office. Seven in supervisory positions, five came from existing public defender offices.

The next item on the agenda is old/new business

Ms. Jankowski said there are several significant pieces of legislation from the special session of the General Assembly. Two of which are patroned by two of our members. Leader Herring's legislation which is a sweeping expungement bill. Previously there has never been expungements in Virginia. This is a Crime Commission bill and would provide for expungements. Senator Deeds also has an expungement bill.

There is also a bill in both the House and the Senate that is pretty significant as it relates to pretextual stops. Senator Lucas is carrying it in the Senate and Delegate Hope is carrying it in the House.

Senator Morrissey has a bill to eliminate jury sentencing unless at the request of the defense. We all know in the long run a jury trial is the best form of transparency, the best guard against an unfair conviction, and is the best right to a trial

Additionally, there is a bill on both the House and Senate side to expand the ability for deferments and dismissals.

There was discussion regarding these bills.

Ms. Grady said the Virginia State Bar has increased the CLE deadline to December 31st. That should help with training deadlines.

There was no further business.

Judge Rosenblatt made motion to adjourn. Mr. Walker seconded the motion. The motion carried.

The meeting adjourned at 12:13 pm.

Respectfully Submitted:

Approved By:

Diane D. Zubke, Office Manager

David J. Johnson, Executive Director