

**The Virginia Indigent Defense Commission  
Commission Meeting  
1604 Santa Rosa Road, Chesterfield Room  
Richmond, VA 23229  
March 5, 2009**

Acting chair, Judge Alan Rosenblatt called the meeting to order at 11:12 am. He welcomed everyone and added that we have a quorum. Several additional Commission Members are expected to arrive later; including Dean John Douglass who is our newest Commission Member. He was selected by the State Bar to fill Professor Shepherd's unexpired term.

Other Commission members in attendance were Kristen Howard, designee for Dave Albo; Chris Anderson, Steve Benjamin, Karl Hade, Judge Edward Hanson, Maria Jankowski, David Lett, David Walker, and Jo-Ann Wallace. Administrative staff included, Executive Director, David Johnson; Deputy Director, DJ Geiger; Director of Budget and Finance, Bryan Aud; Bonnie Farrish, Diane Pearson, and Guy Horsley, Special Assistant Attorney General.

The first item on the agenda is to approve today's meeting agenda.

Mr. Lett made a motion to approve the agenda, Mr. Walker seconded the motion. The motion carried.

The next item on the agenda is to approve the December 15, 2008 meeting minutes.

Mr. Walker made a motion to approve the minutes. Mr. Lett seconded the motion. The motion carried.

Judge Rosenblatt welcomed Kristen Howard who is the Deputy Director of the Crime Commission. Ms. Howard has been designated by Dave Albo and replaces James Towey on the Commission.

The next order of business is the policies and procedures update.

Ms. Geiger reported that the policies and procedures that the Commission adopted in December 2008 went into effect February 1, 2009. She explained that the policies and procedures manual is posted in the Knowledge Center, and information was provided to every employee in the Commission on how to access and read them. Acknowledgment forms are also on the Knowledge Center. Every employee is required to sign and return these forms to HR. She showed members of the Commission how to access the Knowledge Center and how convenient and user friendly it is. Employees have access 24/7. Any amendments made to the current version will be uploaded to the Knowledge Center.

She mentioned that there are a few employees who have not filled out the certification forms. HR is monitoring this.

She continued with policies. There is one section, Section 10.4, Expenses Authorized by Court Order, requiring an amendment.

Budget and Finance is the Department that operationally makes these policies work with forms and procedures that are already in place. In this particular section it is possible that an employee may or may not have both a case reimbursement request form and a DC 40 in order to request reimbursement. What the amendment proposes is changing an “and” to an “or” which provides clarification that both are not needed.

This is an amendment that couldn't wait until November because it may be a disadvantage to the employees to have to pay ahead of time and then get reimbursed. So this is something that we are asking to be approved now and be effective today.

Mr. Anderson moved that the language in Section 10.4 be clarified as noted. Ms. Jankowski seconded the motion. The motion carried.

The next item on the agenda is the training update.

Mr. Johnson reported that it has turned out to be a good year for us with training but somewhat difficult with Carlos Hopkins, our training director, who is still in Cuba and not returning until August. Danielle Ferguson has stepped in, doubling her duties and has been serving as our assistant training director. She has done a good job.

One of our challenges this year is that we are not having our annual conference, previously held in the tidewater area. It was eliminated because of the budget situation. We had to come up with training opportunities because our lawyers still need to get the required CLE's. There was a Criminal Law Seminar that we traditionally send a lot of people to which was held live in February. There are also eighteen live video replays around the state. Our instructions were that no one is going to the program if they have to drive so far that they would need to spend the night. The number and locations of the video replays makes that possible. The registration fee is fairly moderate.

The Chief Justice's Indigent Defense Training is a great program coming up April 3<sup>rd</sup>. In the past we have not sent a lot of public defender attorneys to this because we did not want to take all the spots from the private bar. This year we were advised they would like to see a lot of public defender attorneys there because they pay attention. Thus far we have 212 attorneys registered for the program which is a huge turnout; we will be very well represented. It is a free training. We will require car pooling to keep costs minimal.

In place of our annual conference we had hoped to do a forensics training for all of our attorneys. We had a group of distinguished lecturers that would have been getting paid through a grant, but the grant went away as the foundation, the JEHT Foundation went away in the Madoff scandal. However, the speakers all stepped up and said they still wanted to do something for us, and we worked out a training that will be held here in our training room May 15<sup>th</sup>. There is a summary of the program in your binder. The speakers are waiving any fees, and we are just paying their travel.

We are going to have one senior lawyer from each office here for that day-long training. We have editing capabilities to get a good quality DVD, and the person who actually gets the live training will be tasked with facilitating training for the rest of the attorneys in his or her office.

The speakers are interested in having some circuit court judges at the training. They would also like to come back and do a training for the judges. Hopefully we will have some circuit court judges at the training.

Mr. Benjamin added that there were major findings in the National Academy of Science Report. One of the findings was that lawyers and judges alike are deficient in their understanding of the methodology underlying forensic science; that admissibility questions are being determined on a completely inadequate foundation, and it calls for a better education for judges and lawyers on precisely these topics.

Mr. Johnson said it is really timely, and he is glad that we were able to salvage this training despite the funding going away. It will be cost-effective for us and a high quality program.

He went on to say that on the same day, the Juvenile Law and Education Conference, which we are co-sponsoring, will be held. We are in a re-certification cycle. This is the second year of the two year certification period. Our lawyers need to get recertified to do misdemeanors, felonies, and those in juvenile court, juvenile work. In one day, we will have lawyers getting training at both sites just a couple of miles apart which worked out very well for us. The key is that the registration fees are free or very moderate.

By summer, we will have two hours of ethics CLE programs on DVD. It tends to be an issue at the end of cycles; people are short on ethics credits. The public defenders will have the DVD's in their offices and for any of the private practitioners in the Richmond area; we will have the DVD's and the requirements from the State Bar to get the CLE credits.

We also have a series of lunch-time lectures where private practitioners come in and do one hour trainings. We will have six hours on DVD available to our offices.

After the veto session DJ will put together a training on what the legislature has passed this year and how it impacts our clients and our attorneys.

In addition, we have our Boot Camp which will be held July 26<sup>th</sup> - July 31<sup>st</sup>. This will be our sixth year of Boot Camp for our first year attorneys. We have made a couple of significant changes this year. One change is that every participant will do two jury trials during the week. They will try one in the defense role and one in the prosecution role. That's the model the trial advocacy follows. It will be a little more work for us but we believe it is a really good offering.

In conjunction with the new policies and procedures changes, we brought all of the Office Managers here for a day long training January 27<sup>th</sup>. Human Resources and Budget and Finance had a ton of information for them. It was a really long day and at the end we had exit surveys that each of them filled out. Everyone but one person rated it as good or great. One of the consistent comments was they wished it was longer which was startling because it was such a long day. It shows the need to continue this training.

Our IT Director, Ed Ernouf, holds bi-monthly conference calls with the office managers to keep them up-to-date with changes that are on going and to get feedback on proposed and implemented changes.

On January 30<sup>th</sup> we had the Public Defenders here and gave them pretty much the same training. We are trying to impress upon them that although they delegate many of the operational tasks to the office managers, ultimately they are responsible to see that it is being done right. They had a major HR training in the afternoon. We had Amy Williams put together a training for them on the life-cycle of an employee, including from the time there is a job opening, ensuring there are adequate funds to fill the position, the running of an ad, to first day paperwork, first day training, what needs to be done during the first pay period, computer usage, etc., up until the time they leave the agency. This was a lot for them to absorb.

These were two big trainings for us.

As part of our IT compliance, we are required to do cyber security awareness training. This means that everyone who will be using our computers has to have training on a variety of security issues.

Ms. Geiger reported that we used a third party vendor prepackaged training through the Knowledge Center. It took each employee about two hours to complete the modules and the final test. This is based on the internet connection, loading, and other issues that can occur. All of our employees met the deadline except three. Our procedure for those who did not meet the deadline was to cut off their computer access. Their public defender had to request Mr. Johnson to turn it back on and they had to complete the program within twenty four hours. The three that missed it the first time completed it within the twenty four hours. Everyone is now current.

Mr. Johnson added that DJ was the help-desk for this and she did a great job. Three out of five hundred fifty some employees who didn't complete the program on time is quite remarkable.

Some of the computer restrictions now in place are: thumb drives are prohibited, we must lock our computers when we leave our desks; our passwords have restrictions, and many other new guidelines.

Mr. Johnson added that there is a training update tab in the binder with all of our trainings for this calendar year. The first training was January 15<sup>th</sup>. There are many certification trainings, which is a continuous obligation for us. We also have partnered with several local Bar Associations, and they are hosting certification trainings for us.

He mentioned that recently he went to the Salem/Roanoke County Bar Association and took with him a one hour Lunchtime Lecture DVD that Craig Cooley had done and used it for a one hour CLE program. They are now partnering with us and will do future certification trainings. We will continue to send them DVD's.

He said that Danielle Ferguson was hoping that the Salem/Roanoke County Bar Association would host a certification training every month but will more than likely be every other month. Training is in good shape and will get better when Carlos Hopkins returns in August.

The next item on the agenda is hiring.

Mr. Johnson reported that we previously had a sixty day hiring freeze which has been extended to ninety days. This is necessary to generate some savings.

Mr. Hade said the Supreme Court will go to 150 days.

Mr. Johnson continued. We have hired a new Public Defender in our Martinsville office. Vikram Kapil left to go to private practice. Sandy Haley is the candidate we chose; she had been the Deputy Public Defender. In our Arlington office, we recently hired Vanessa Hicks, she was one of the deputies in Arlington and had been in the Charlottesville office prior to that. She has been in our system for thirteen years. We spend a day with each newly hired Public Defender and go over prior problems, the importance of the administrative part of the job, and other expectations.

If you recall, two years ago we had a twenty seven percent turnover rate. Last year we felt a positive impact from the thirteen percent raises. We were able to get our turnover down to about twenty percent. The first seven months this year we are down to about 16.7 percent, which puts us in the range of what state agencies expect, still a little bit high but no longer double what a typical state agency has. He has to credit the economy for some of this because people aren't leaving their jobs. One of the benefits with the economy is we seem to have more stability in our offices right now.

Another thing we looked at is our caseloads. Our caseloads have increased about 9.8 percent. They lagged the year before because of the turnover. The first seven months of this year compared to last year at the same time increased about 4.2 percent, which is good. We don't expect to keep adding to our caseloads because we would overwhelm our attorneys but it seems the slowing turnover has had exactly the impact we thought it would have, it stabilized the offices and enabled them to handle more appropriate caseloads.

Ms. Wallace asked about appropriate caseloads.

Our average is about 340 to 350 cases per lawyer per year. That is a combination of misdemeanors and felonies. There is a wide range from office to office and jurisdiction to jurisdiction. One of the things the caseload study is going to do for us is help us determine if we need to redistribute some of our resources. We don't have a firm answer as to what an appropriate caseload is yet.

There was discussion about budget cuts.

Ms. Wallace said that public defender offices have limited ways in which to control their numbers. Every state is different, there are some public defender offices that are pretty well resourced and could probably deal with a budget cut. But as a general proposition, public defenders with constitutional obligations should not be subjected to some of the same budget cuts that other agencies are. Public defender offices cannot deal with personnel issues in the same way that other agencies can. It took a few years but eventually her office was exempted from budget cuts.

Mr. Johnson agreed and added that now every public defender has the authority to go to the judges and ask for assistance in controlling caseloads.

Ms. Geiger said that our statute is friendlier than some states. Most of our offices have a pretty good relationship with the judges.

Mr. Walker said that he wants to make sure that there is something we can take to the Legislature.

Judge Rosenblatt added that we have worked very closely with the Supreme Court. We don't have the luxury of going to the Legislature on our own. We are part of the judicial package. Fortunately the Supreme Court has been very good to work with.

Ms. Wallace asked, when a public defender doesn't take a case, the case doesn't go away; the assigned counsel has to handle it. Doesn't that just transfer the cost at a higher rate?

Judge Rosenblatt answered by saying that we will be going over the budget shortly and perhaps Ms. Wallace's question can be answered at that time.

Dean John Douglass joined the meeting and Judge Rosenblatt introduced him. He is Dean of the Law School at the University of Richmond. He has been appointed by the State Bar to fill Professor Shepherd's unexpired term, and we hope that he will be chosen to continue after that.

Judge Rosenblatt added that Dean Douglass is familiar with our agency and has been a really good friend to the Indigent Defense Commission. He said that Mr. Johnson has worked very closely with Dean Douglass, and we are happy to have him with us.

Dean Douglass said thank you and it is a pleasure to be part of this group. It has been a work that has been important to me for much of my career, and I'm happy to have the opportunity to participate. He added that he doesn't expect to fully fill Professor Shepherd's shoes but will fill what piece of them that he can.

The next item on the agenda is the Department of Planning and Budget's recommendations update.

Ms. Geiger reported that there are two charts in the DPB update tab. One contains all of the DPB recommendations. There were 23 recommendations of which 14 were HR oriented. Behind that is the updated project chart for 2009 which includes all of our major projects that we do.

Number 4 on the DPB recommendation chart talks about our ability to communicate changes with the field offices, make sure everyone is on the same page in the administrative office and the field offices. The Knowledge Center is being used as our intranet. This is how we will communicate with our field offices, on policies, procedural changes, and any other updates that need to be made. This will be our communication center.

We have the ability to create team rooms. We have a team room for all of our office managers and lead secretaries in all of the field offices. This also includes the chief defenders and everyone in the administrative office.

We have loaded all the necessary forms on the Knowledge Center for easy access to pull up, fill out, print, and send in. We also have the ability to provide them with presentations. This is exactly what they were provided when they came for their training in January. There is a component of the Team Room that allows them to email other people; there is also a bulletin board where they can send messages. If they have questions they can submit them here.

We also created a team room for the public defenders. We have started adding the contents of their training and also the contents of the Public Defender Manual which we created for them.

The third team room that we are planning to create is for Boot Camp faculty and Boot Camp participants. Faculty can put all of their materials in there. This can hold assignments for participants as well.

Cyber Security training is located in the learning center.

The library of the Knowledge Center is where we have our policies and procedures, the standards of practice, the appellate policies and procedures, all the needed forms, grievance forms, etc. We also have resources. There is also an article that was written by our Capital Defender, Joe Migliozi that was printed in the Virginia Bar Association magazine. We put that on there for people to look at and use. We're hoping to create a Brief Bank and have petitions and memos, etc. and make it very useful for our attorneys. That's a little further down the line.

Under the Administration tab is where I was able to monitor who took the cyber security course. We have purchased one license for software called Articulate which will allow us to add audio and video to our trainings for PowerPoint, and hopefully that is what we will get started on soon.

Under Student Records, what you will see for each person is an actual transcript of the courses they took, whether they have completed it, how long it took, and other details.

Now that we have the Knowledge Center up and running, we will be able to use it for a lot more. We are going to try and get our employees as familiar with it as possible so they come to rely on it and use it, which will be an even better communication tool for us.

That is recommendation number 4 on the chart.

Recommendations 5, 6, 7, 9, 20, 21, and 22 are all interrelated.

The Department of Planning and Budget said our workload is unevenly distributed among certain places and certain employees. In order to look at this we need to know every employee's job description. In order to create job descriptions, we need to know what work or tasks everyone is doing and what each department is expected to do.

Those five to seven recommendations basically entail us looking at all the requirements and responsibilities of each department, whether they are outside requirements or inside requirements, what skills are needed to do those jobs, what are the skills of the people currently doing those jobs, what are the skills that we are left with that we don't have and what do we need to do to get to the end product which is doing all of the things that are required of us with the people that we have.

Completing all of this is a long process, and we are in the middle of it right now. Hiring an HR manager was another recommendation. Ms. Williams is going to be helping us and the other managers move through this process step by step. In the end everyone will have a job description and know what is expected of them. We will know what we can expect from them, and we will know that we can get all of the work done that we need to get done. Also, if we have a deficit, we will know what that deficit is.

One example is that she completed a job description for Mr. Ernouf's position of IT Director. In doing so one of the things she did was analyze and compare it to IT Directors in other agencies that are similar; same number of employees, offices throughout the state. She picked the DEQ. The DEQ has nine IT people, and we have four. So one of the things we may end up seeing out of this is that we have a deficit. It's not through any lack of ability with the people who are there, it's that we don't have as many people as it takes to run the IT Department that we have or need. That is what this analysis is going to tell us.

Number 17. We were told to look at the VITA (Virginia Information Technology Agency) partnership. In order for us to buy into the partnership it would have cost us \$1.9 million annually, which is not feasible. So they suggested that we explore other cost effective options, maybe hiring or getting consultants. This is what we have done.

Prior to the severe budget crunch that we are in, we were able to purchase new desktops and new servers. We are now supposed to develop a replacement cycle for the next time we will need these to be replaced. There are a lot of IT security requirements. For instance, there are certain things we needed our servers and desktops and software to perform or provide. We took this opportunity to get as many of these services on the servers and computers as we could to comply with as many of the security standards as possible.

What we are trying to do is use the DPB recommendations, the security standards requirements, and all of our other requirements to get as much done as we possibly can with the staff that we have.

The DPB recommendations chart and the project chart give you a picture of what we are working toward and where we are in the process.

The project chart has some perennial items, the Annual Report, the ARMICS Certification. It also has the caseload study. We finished the first two phases and that is basically giving us an idea of what the current picture is. That included a time study, some caseload statistics, which again called on our IT Department to pull that out of our caseload data base. We found some improvements that need to be made to our caseload data base, which we are

going to try and do on a shoe string budget. The caseload consultants are drafting surveys to send out to the field to identify the barriers to quality representation. If you had more time, what would you be able to do for the clients to get to the ideal quality of representation.

The next phase after that is “what should be”. We are in the middle of our caseload study. They are waiting on more data from us for the next phase and we need to review some of the survey questions they sent to us in order to get an idea if that is going to capture what they need to identify what the ideal public defender office would look like if you had no limits and no monetary issues. From there we can work toward getting a recommended caseload standard.

The other items in the project chart have all been covered under something else except for the APA audits.

The APA (Auditor of Public Accounts) audit has become an annual occurrence. There were two parts this year. One was on our IT security standards; the other was on the Fiscal/HR side. They have asked for a lot of documents of which we have provided probably 98 percent of them. One of the things they asked was if we have done the cyber security training and what the process was for that. Luckily we were able to provide that information.

Ms. Geiger added that if any of the Commission Members would like an account on the Knowledge Center, she can set up a non-employee account for them.

Mr. Johnson said that as part of our coming into compliance with the VITA IT security standards, we are supposed to have an outside audit. Our initial inquiry of vendors resulted in quotes of \$70,000 and up. This is an annual cost which is mandatory. Fortunately as part of their audit the APA looks at the compliance with the VITA standards. Their audit will also serve as our audit of our IT operations, which will save us significant money.

The next item on the agenda is the budget update.

Mr. Johnson said this is where we are with the General Assembly; as you may recall during a previous meeting the Commission gave us the authority to cut \$450,000 each year of the biennium from our budget. That was the amount which with the help of the Supreme Court, was asked for and accepted by the Governor’s office. We were able to do that without impacting any personnel.

Mr. Johnson added that for purposes of the budget we are a Judicial Department agency. The Judicial Department includes the Court, which is a huge piece of it, our agency, with a \$40 million budget, the Sentencing Commission, and the State Bar. This is how the legislature looks at us. We are grouped together under the Judicial Branch.

Mr. Johnson said that has been a good thing for us in terms of budget because the court gets a lot of deference and there is the recognition from the General Assembly that this is something that has to be funded. In years past we have not been immune but we have been well insulated. In the Governor’s budget

when Executive Branch agencies were getting cut 15 and 18 percent, that \$450,000 was less than two percent.

When the Governor's budget comes out and there need to be reductions in the judicial agencies, Mr. Hade and Mr. Johnson get together and try to determine what the IDC can give up and still help the Supreme Court and still meet the demands of the legislature.

Mr. Hade added that typically the Governor tells the Executive Branch agencies what kind of reduction plans he wants. Then Mr. Johnson and I get together with Don Curry and Rick Kern and come up with a plan in terms of honoring this request. Our goal in the process, because we have staffing issues across the board, the court system is understaffed by 300 positions; we tried to determine what we could cut without affecting personnel. We came up with a plan and submitted it to the Governor. This year, the reduction plan that we came up with, representing the Judicial Department was \$5 million. This was significantly more than we have been asked to give before but obviously the problem was significantly greater.

To give you an idea of the revenue shortfall of the state, two years ago through the court system we received slightly over \$1 billion, this year it will maybe get to \$600 million, this is a \$400 million drop-off in two years. These revenue shortfalls are across the board in everything.

We submitted that plan to the Governor, the Governor accepted it and that was in his December budget.

Mr. Johnson said that this was not painless but it did not impact any filled positions. There were two part time positions eliminated, and they have been vacant for a while. Training was a big savings piece for us. We got to the \$450,000 without impacting what was going on in our offices.

Mr. Hade added that once the General Assembly is in session and the House and Senate money committees have reviewed the Governor's budget and we are asked to speak about what makes up this reduction plan, depending on their mood they will say okay that sounds good or we think you can do more. This year the Senate, after the presentation felt like we made more than a good faith effort and knew that the \$5 million would hurt us and were not looking for more money from the Judicial Department. The House on the other hand, was looking for more money but ultimately the additional \$3 million figure came up. The Senate still disagreed so it went to conference but the House stood firm and said the Judiciary Department needs to come up with an additional \$3 million and that is what came out of the budget process.

They also made some cuts in other areas; the waiver money was scheduled to go up this fiscal year from \$4.2 to \$6.2 million. They have eliminated that \$2 million increase so funds available for waivers will stay at \$4.2 million for the coming fiscal year.

The funding was removed from the Judicial Performance Evaluation program which is another \$500,000 out of our budget. They didn't specifically tell us where the \$3 million had to come from but asked me to meet with Dave and the Sentencing Commission and the remainder of the Judicial Department to review and come up with a plan to find that \$3 million. For us and the IDC the

bulk of our budget is in personnel or the criminal fund. For the first wave (the \$5 million) we have eliminated conferences. We eliminated voluntary judicial conferences. We eliminated a huge IT training we had planned for our district court personnel. We have cut back on just about all publications, travel, etc. Even with eliminating all of that we had to go to the ninety day hiring freeze to make our contribution. We are still sticking to the goal of no lay-offs. We might need to extend the hiring delay to at least five months because we know that the bulk of that \$3 million will have to come out of our budget.

Mr. Hade went on to say that because of the economy, which is a good and a bad thing, the Court's turnover rate has gone down. What we typically could have expected to generate with a 90 or 120 freeze is now going to take 180 days.

There was discussion about how the public defender system saves the state money.

Mr. Hade said that a classic example is about two years ago we implemented a program trying to reduce interpreter costs out of the criminal fund and we hired staff interpreters to utilize them versus contractor interpreters. The first year, even counting salaries and benefits it generated a million dollars worth of savings to the criminal fund. We offered to do more of that this year but because, politically, it would be seen as giving positions, it was dead on arrival, even though we could have generated savings in the criminal fund. This was a very rough session on many levels.

Even with these cuts we still were cut less than many of the executive branch agencies. There was an acknowledgement that the judiciary is different.

Judge Rosenblatt added for the newer members of the Commission that the IDC is an independent judicial agency, we do not technically come under the Supreme Court, but the legislature lumps us with them. We have often talked about whether we would be better off going off on our own and not being part of the Supreme Court, trying to get the legislature to recognize us as the independent judicial agency that we are. But frankly we are much better off with the Supreme Court because they understand our problems and like these tough budget times have indicated, they look out for us. Mr. Hade and the Chief Justice have been terrific this past year. Please let the Chief know how much we appreciate how much the Supreme Court has done for us.

Mr. Hade said that early on when the \$3 million first came out he and the Chief reassured Mr. Johnson that if that is the final number that the court would not come looking for additional monies that would cause him to lay off personnel in the public defender system. That is still the position we take today. We know that we will have to come up with the brunt of it if they need additional money.

Mr. Johnson said that when he first became Executive Director three years ago he met with 70 or 80 of the legislators. He used a fairness argument, which didn't work. The next year he approached it as this doesn't make sense because we have 27 percent turnover, and it's costing you more to pay the private bar. That argument resulted in a 13 percent increase. He found that the money committee staff members, the Department of Planning and Budget, and the people in the Governor's office, fully understand what we do, that it is

constitutionally mandated, and that we save them money in the long run. Mr. Johnson believes that this is why we have not been hit in what is going to be the third round.

The next item on the agenda is the budget update.

Mr. Johnson explained the Commission's potential contribution toward the additional \$3 million that we were required to come up with. Ninety one to ninety two percent of our budget is personnel costs and rent. There is very little else to cut and we cut everything we could to get to the first \$450,000.

We do have a plan that would generate a savings of \$283,000 over the rest of this year and next year. This involves vacant positions. It specifically involves one vacant position in Arlington. We recently promoted Vanessa Hicks, who was deputy public defender to the Public Defender position. When that office first opened prior to Mr. Johnson coming on as Executive Director it was over-staffed and still is. It has the lowest caseload numbers by a factor of two. Ms. Hicks has stated that she will not need to fill the position that she has vacated. We are not proposing eliminating the position. We are proposing delaying filling it for about fifteen months, until the beginning of 2011 to see where the budget is. If we are in a position to fill it at that time we should have the caseload study and should be able to determine if another office needs the position. This would not impact a current employee. This would also be a true savings because we would not be paying out unused leave.

We have a similar situation in Fairfax, which carries our second lowest caseload average. We have a position that has been vacant for a while. The Public Defender has seen it coming and has made the adjustments.

Finally, a sentencing advocate position in Franklin.

That would, hopefully, be our worst-case scenario.

A lesser impact would be the first two positions we talked about, and again we are not going to be eliminating these positions just a delay in filling. Our best case scenario would be just targeting the one position in Arlington. Our hope is that would be our contribution to what the Judicial Department has to give. The good news is that it would not impact any current employees. We targeted offices that should be able to handle this, and the Public Defenders in these offices expect something is coming.

Mr. Walker made a motion that the Executive Director come up with whatever plan is necessary in order to meet the budget requirements of this office.

Judge Hanson seconded the motion. The motion carried.

Mr. Johnson reminded Commission that we are in our annual budget cycle. A couple of years ago we came up with a specific budget process to involve the public defenders and their office budgets. Mr. Aud has sent them their proposed base budgets from last year and they have until March 20<sup>th</sup> to give their input on where they think they need more or less money, based on their spending. Mr. Aud will put together a budget for you. We will have the Budget Committee meet the week of May 18<sup>th</sup> and review the results. At the June

meeting it will go to the Full Commission, hopefully with a recommendation from the Budget Committee.

Mr. Johnson said that Mr. Aud has done a great job in keeping us informed with budgetary issues, what our cash situation is, and what our projected expenses are. The bottom line number for us is the \$122,397. If things go as expected and we have no unexpected expenses, which we always have, we would, after paying all of our bills at the end of the year have \$122,397 left. To put that into perspective, not too long ago we had \$7 million left at the end of the year. Because we are not generating the turnover and vacancy savings and basically the savings we are generating now on what turnover and vacancy we have, coupled with the savings we are getting from lessening our operating expenses, we are going to make it through the year. It is going to be very tight. With the budget situation the way it is, this is what is expected from agencies, that we do not have a lot left over.

As Ms. Geiger reported earlier, fortunately, before this crisis hit, we retooled our IT department, which was really big because we will not have the ability to do that again for a while.

The last page in your binder is something that Mr. Aud has instituted. We now have a Budget and Finance support line for our field offices. If there are any questions that are finance or fiscal related, they can email or call that number. What we wanted to do is have them get the correct information from the correct person when they have questions. The IT Department has already been doing this with good effect. This has been well received by the field offices.

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, the Deputy Director, and Guy Horsley, Special Assistant Attorney General because it is reasonable to believe that their presence will aid the Commission in its consideration of the matters which are the subject of the closed session.

Mr. Anderson seconded the motion. The motion carried.

After reconvening into open session, Judge Hanson moved for a roll call vote asking that each Commission member certify that to the best of his or her knowledge, during the 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 and were identified in the motion by which the closed session was convened.

All members so certified.

Judge Rosenblatt thanked James Towey for his service on the IDC. Mr. Towey has left the Crime Commission and is going to run for the House of Delegates. Judge Rosenblatt added that the Commission appreciates everything Mr. Towey did, and he will be missed.

Mr. Anderson made a motion authorizing the Executive Director to relocate the Northern Virginia Capital Defender Office to the Arlington Public Defender Office.

Ms. Jankowski seconded the motion. The motion carried.

The next Commission meeting will be held Thursday, June 4<sup>th</sup> at 11:00am. We will have an Executive Committee meeting prior to that and will email the members of the committee regarding the start time.

We will have elections for the chair and vice chair and vote on the composition of our sub-committees during the June meeting.

Judge Rosenblatt mentioned that we need to fill the Northern Virginia Capital Defender position and asked the Commission if they had any recommendations.

Ms. Wallace suggested that she post it on her website and list serve.

Mr. Johnson mentioned that the Commission Members whose terms are expiring the end of this fiscal year are: Maria Jankowski, Carmen Williams, David Walker, and Judge Rosenblatt

Mr. Benjamin asked if it was possible to get a copy of the NAS Report for each of the Public Defender offices. It is a 240 page publication which is an incredible report and a tremendous resource. It is going to be changing the way forensic science is practiced in every state immediately and for the next several years. You can get a free executive summary on line which is 24 pages which gives you the remarkable findings and recommendations of this group. You can also buy it on line and download it.

Mr. Johnson added that it will be a topic of conversation at the training on May 15<sup>th</sup> and maybe we can provide a copy for each one at the training.

There was no further business.

Mr. Walker made a motion to adjourn. Mr. Anderson seconded the motion. The motion carried.

The meeting adjourned at 1:05 pm.

Respectfully Submitted:

Approved By:

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Diane Z. Pearson, Administrative Assistant

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David J. Johnson, Executive Director