

The Virginia Indigent Defense Commission
Commission Meeting
1604 Santa Rosa Road, Suite 239
Richmond VA 23229
June 14, 2012

Judge Alan Rosenblatt (ret.) called the meeting to order at 11:10am. Other Commission members in attendance were Steve Benjamin, Karl Hade, Maria Jankowski, Kristen Howard, Kent Smith, Carmen Williams, and Judge Hanson. Administrative staff included Executive Director, David Johnson, Deputy Director, DJ Geiger, and Administrative Assistant, Diane Pearson.

Quorum requirements have been met.

The first order of business is to approve the agenda.

Judge Hanson moved to approve the meeting agenda. Ms. Jankowski seconded the motion. The motion carried.

The next order of business is approval of the March 15, 2012 minutes.

Judge Hanson made a motion to waive the reading and approve the minutes. Ms. Jankowski seconded the motion. The motion carried.

The next order of business is the report of the Executive Committee.

The Executive Committee met earlier this morning and made the following recommendations for officers; re-elect Judge Rosenblatt as Chairman and Maria Jankowski as Vice Chairman.

Judge Hanson moved to reelect Judge Rosenblatt as Chairman and reelect Maria Jankowski as Vice Chairman. Ms. Howard seconded the motion. The motion carried.

Mr. Johnson said that each year there is a renewal of Authority of the Committees. We are asking for a single vote on both the authority of committees and the composition of the committees.

The existing committee members remain the same with the following exceptions. Senator Marsh is no longer the Chairman of Senate Courts; Senator Norment is, so by statute, Senator Norment or his designee would serve on the Commission. The slot on the Executive Committee will be reserved for Senator Norment or his designee. Also Delegate Albo has

permanently assigned Delegate Minchew to be his designee. We have proposed Delegate Minchew serving on the Budget Committee, in Delegate Albo's place. These are the only committee assignment changes.

Judge Hanson moved to approve the assignment of committees. Ms. Williams seconded the motion. The motion carried.

Judge Rosenblatt welcomed and commended Peter Legler on his service and upcoming retirement. Mr. Legler has been the Virginia Beach Public Defender for almost forty years.

A resolution commending Mr. Legler was read and is attached to these minutes.

Judge Hanson moved that the Commission adopt the resolution recognizing and thanking Peter Legler for his thirty nine years of dedicated service in defense of the indigent accused. Mr. Benjamin seconded the motion. The motion carried.

There was discussion regarding Mr. Legler and his exemplary service.

Mr. Legler said this is a tremendous honor. He reminisced about some of his experiences as the public defender. He advised that he is planning to travel in his retirement and perhaps write the great American novel. Mr. Legler expressed appreciation to all of the people he worked with over the past 39 years. He said the people who work in the public defender offices are almost universally people who truly care about the welfare of others. These folks sacrifice a lot. He went on to thank the members of the Commission who have made changes over the years for the benefit of the employees. Mr. Legler complimented the Commission and Mr. Johnson. He thanked the Commission for all its support.

The next item on the agenda is the budget update.

Ms. Jankowski said the Budget Committee met May 21st and reviewed the year end projections for the current fiscal year as well as the proposed budget for FY2013. The members of the Budget Committee voted unanimously to recommend the adoption of the FY13 budget as proposed to the full Commission.

Ms. Geiger reported that FY12 will end June 30th. There are a couple of General Assembly updates. In FY12 there was an additional judicial reversion of \$700,000 and our portion of that, as discussed and agreed with the Court, was \$100,000. The previous judicial reversion of \$944,000 remains for FY12. This totals a return of \$1,044,000, for which we have already processed the necessary transactions.

For FY2013 the General Assembly proposed a three percent bonus for state employees that will be paid in November. This is believed to be tied to performance with a "Meets Expectations" in the annual review. There is also a proposed two percent state employee

raise slated for July 2013. Both are contingent on the state meeting certain revenue indicators and the bonus is contingent on savings by agencies by the end of this year. The other good news for FY2013 is that we will no longer be responsible to return the \$944,000 judicial reversion.

The remaining funds for the end of FY2012 as of yesterday are \$2.3 million. When we subtract the judicial reversion amounts that leaves \$1.3 million. We have year end and prepayments but rent is not included. We are required at year end to pay insurance premiums, workman's compensation premiums, the Knowledge Center, and all of the IT hosted services. In addition, we have ordered digital voice recorders for the public defender offices. The State Bar dues are paid at the end of June as are postage and copier maintenance. Additionally, several offices have furniture on order. The total for these expenditures is about \$387,000.

We budgeted for a prepayment in FY12 of three months rent in order to make the FY2013 budget work. That leaves a projected FY12 year end balance of between \$300,000 and \$339,000. In March we were predicting between \$123,000 and \$250,000 at the end of the fiscal year. However, the Department of Planning and Budget made some central appropriations adjustments to agency funds, which netted us a gain of \$596,000. If we had not had that, we might have had a problem with our bottom line.

In the language of the Appropriations act, we are listed as a mandatory re-appropriation agency, meaning our year end balances will be returned to us, less reductions by the General Assembly. The McDonnell administration has returned our carry forward money each year. Last year we used it for retention bonuses. This is significantly less than last year.

Our turnover and vacancy savings has been fairly stable, however, FY2012 started significantly lower than any other year. One reason is that we no longer have a hiring delay or frozen positions. These artificially increased our turnover and vacancy savings the last three years. We are now creating turnover and vacancy savings at a much lower rate. In the three prior years we generally generated \$2 million or more in turnover and vacancy savings. Our projection for next year is \$500,000 and is a significant drop.

There are six areas of expenditures for state agencies. The 1100 series is personnel. The 1200 series is contractual services, includes training, phone service, computer service, internet, and travel. The 1300 series is supplies. The 1400 series is transfer payments to include premiums, auto liability insurance, and unemployment compensation. The 1500 series is continuous charges and the bulk of this is rent but also includes a few insurance premiums, workers compensation, and our Library of Virginia file storage. The 2200 series is equipment and is mostly IT, network equipment, laptops, phones, furniture, and copiers. These categories cover most of our expenses.

We made a couple assumptions when we created the FY13 budget. One is that we would fund every position as if it were full every day of the year, (100 percent employment). It is

not likely that that will occur. In object code 1195 we budgeted \$744,000 in vacancy savings. This is a little above this year but without the retention bonuses there may be more turnover.

We also focused on where we want to make some improvements and looking to our strategic plan, we focused on training. In line items 1224 and 1227 we have more than doubled the funding for training. Each office will receive an increase in their training budget both for registration and travel.

There was discussion regarding discretionary funds. Rent and personnel are approximately 92% of our budget. There are additional costs that we have no control over such as the state vehicles, gas, and mileage; things we have to pay for including copiers. Pure discretionary funds are about two percent of the budget.

Another item we focused on is IT. The IT projects include a desktop refresh because our computers are now four years old. It includes an upgrade for our operating system. Windows XP will go out of service this year, so we will need to upgrade either to Windows 8 or whatever the new version is. We need to replace our financial system as our current system is out of service.

VITA (Virginia Information Technology Agency) issued a new bid for software development and hosting services. Previously that bid had been won by Virginia Interactive or Virginia.gov. They currently host our website, our certified attorney database system, and are working to take our case management system live to the web. Virginia Interactive did not win any portion of the bid issued by VITA. Within the coming year, we will have to move the work to one of the winning companies. We anticipate there will be an increase in costs. Because of the way the contract is structured, we do not know how much we will be charged. First we have to develop a scope of work, figure out the number of hours, and then we can determine the costs. This is anticipated to take about a year.

There was discussion about issuing an RFP or staying with Virginia Interactive.

Ms. Geiger said the current thinking is that they will transition the revenue generating agencies first and that means we will have some time. The problem is that we are on the edge of getting our case management system web driven, and we need that data conversion. We would rather have Virginia Interactive finish because they have done all the work to it, but we will check out our options.

The IT costs are spread across six Line Items: 1275, 1279, 1292, 2211, 2212, and 2218. There will be an increase in cost for those line items.

All of our leases have automatic escalators, and we can count on between \$40,000 and \$50,000 each year in rent escalation. This has been the trend for the last three years. That has been added into the budget.

The proposed budgeted amount is \$43,500,000. The appropriated amount from the General Assembly is \$42,900,000 which leaves a deficit of just under \$600,000. With the FY12 prepaid rent savings of \$606,000 that leaves us with a positive balance of about \$9000. This is a more aggressive budget than the past few years. We are putting more money in the budget and plan to spend as much of it as we possibly can. As a mandatory re-appropriation agency, we anticipate our carry forward funds to be returned, so there will likely be another \$300,000 added to that. We have some tools if we need them to generate some artificial savings.

There was discussion regarding the budget.

Ms. Jankowski made a motion to adopt FY2013 budget as proposed. Ms. Howard seconded the motion. The motion passed.

The next order of business is agency operations items.

Mr. Johnson said that there are copies of the first two editions of the "Executive Director's Memo" in the meeting materials. This is something we started recently.

The management training we had in January was the first time we included our supervising attorneys; senior assistants and deputies. The response from the training was very positive. That's why we started the Executive Director's Memo. We'll have a theme for each edition and each edition will cover a wide range of topics in order to continue the momentum and share information following up on lessons from the training.

Mr. Johnson introduced Jewell Hudson who is our new Director of Budget and Finance. Janice Johnson is retiring at the end of June.

Mr. Johnson continued with the training update. We are in the process of redoing the certification training. We put together a group of public defender attorneys to deal with both the first day of training which is basic attorney training and the second day which is juvenile training. We hope to start recording new speakers in the fall. We are making an effort to make the existing training better. We are now using more electronic links and will eventually move to giving them just what they need for the presentations and everything else will be in electronic format. Every month this training room is full but part of the problem is that some of these lawyers have been doing court appointed work for a long time and are attending for the free CLE hours. It is not designed for that. We are going to design and provide a more advanced program for these lawyers.

We had a sentencing advocates training which the sentencing advocates helped put together. We gave them a detailed evaluation summary. Overall this was very highly rated. This is something we do for all of our trainings now. We then develop a report from the summaries and share it with the speakers. We want to host programs with only quality speakers.

Our boot camp is scheduled for July 30th through August 2nd. We are expecting to have around fifty attorneys. Last year we had thirty eight. We have redone the agenda, trying to make the most of the lecture parts to include a demonstration where appropriate. We tweaked the topics some. It takes about 300 people to stage boot camp, including jurors. Our annual conference will be in Virginia Beach this year in September. We have already lined up some very good speakers and we are helping them with their materials.

October 15th we have the NLADA/VIDD Appellate Training. The NLADA has a project where they want to provide help to the indigent defense systems with appellate work. We identified that there really is not appellate training particularly for private attorneys. We provide some for our attorneys. Hopefully this will become an annual project. We are working with the University of Richmond law school which we think they will allow us to utilize their facilities.

We added the Regional Appellate Boot Camp last year, it was well received.

The Management Training for Supervising Attorneys will be in January. One of the speakers, Karen Michael has agreed to come back for this.

The Department of Justice put out a solicitation to help public defender systems comply with ABA standards. A gap we have identified in our system is advanced trial skills trainings. Catherine Ruz, our Resource Attorney took on the task of doing the grant application for a large federal grant request of about \$250,000 for about two years. We should find out in September if we will be awarded the grant. Odds are we will not get it the first time but it is a learning process. This is another area where we can boost our training program offerings.

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, the Deputy Director, and the Human Resources Director 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.

Ms. Jankowski seconded the motion. The motion carried.

After reconvening into open session, Judge Hanson moved for a roll call vote asking that each 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 and that were identified in the motion by which the closed session was convened.

Each member so certified.

The next item on the agenda is strategic planning.

Ms. Geiger said that strategic plans are now required. The Department of Planning and Budget is the central agency that administers and monitors that. The Auditor of Public Accounts is now auditing on strategic plans. Previously you amended and approved a mission statement and a vision statement.

The mission and vision statements are the top categories. The goals are the tools to use to accomplish the mission. Once the goals are set then the objectives, measures, strategies, and targets are set in order to achieve the goals. We have proposed revised goals, which are based on our current strategic plan goals.

The first proposed goal is to improve the quality of indigent criminal defense representation in Virginia. We would like to change this to “provide a broad spectrum of high quality criminal legal defense education,” i.e., training.

The second proposed goal would be splitting our current second goal which is: Improve recruitment and retention of public and capital defenders. We would split this in to two goals. The first would be to “improve the recruitment of qualified employees.” The second part would be to “enhance the retention of highly skilled employees.”

The third goal currently is to provide a high level of quality customer service through efficient and effective administrative support services. The proposed goal is: to “provide efficient and effective administrative support services to the field offices.”

There are a total of four goals and if we achieve those four goals it will actually help us enhance the quality of representation which is within our mission.

The first and fourth goals are okay as is. Judge Hanson moved to adopt the first and fourth goals. Ms. Williams seconded the motion. The motion carried.

The second goal, change “Enhance” to “Increase.” Mr. Benjamin moved to adopt the second goal as amended. Ms. Howard seconded the motion. The motion carried.

The third goal, change “field offices” to “public and capital defender offices.” Mr. Benjamin moved to adopt the third goal as amended. Judge Hanson seconded the motion. The motion carried.

Mr. Johnson said that the VCJC wrote to us, the Supreme Court, and the State Bar with concerns about qualifications standards of capital appointment. These haven't been reviewed in years. A committee was formed and our first meeting is June 28th. We will share with the Commission our progress.

There was no further business.

Mr. Smith made a motion to adjourn. Ms. Jankowski seconded the motion. The motion carried.

The meeting adjourned at 12:54pm

Respectfully Submitted:

Approved By:

Diane Z. Pearson, Administrative Assistant

David J. Johnson, Executive Director