

The Virginia Indigent Defense Commission
Commission Meeting
1604 Santa Rosa Road, Suite 239
Richmond, VA 23229
June 4, 2009

Acting chair, Judge Alan Rosenblatt called the meeting to order at 11:10 am. He welcomed everyone. Other Commission members in attendance were Chris Anderson, Karl Hade, Carmen Williams, David Walker, Kristen Howard, John Douglass, Maria Jankowski, and Judge Edward Hanson. Administrative staff included Executive Director, David Johnson; Deputy Director, DJ Geiger; Diane Pearson, Bryan Aud, and Bonnie Farrish.

Quorum requirements have been met.

Judge Rosenblatt introduced Kristen Howard who is the Executive Director of the State Crime Commission.

Ms. Howard said that the chairmanship of the Crime Commission has changed. Senator Kenneth Stolle and Senator Janet Howell serve as co-chairs of the Crime Commission and Delegate David Albo is vice chair. Ms. Howard is designated to serve on the Commission by Senators Stolle and Howell.

The first order of business is to approve the meeting agenda for today.

Ms. Jankowski moved to approve the agenda. Mr. Anderson seconded the motion. The motion carried.

The next item on the agenda is to approve the March 5, 2009 meeting minutes.

Judge Hanson made a motion to approve the minutes. Mr. Hade seconded the motion. The motion carried.

The next item on the agenda is the report of the Executive Committee.

Judge Rosenblatt reported that the Executive Committee met earlier this morning to come up with a slate of officers to serve for the next year and also for the approval of the committee memberships and their authority.

Judge Hanson moved that the Commission approve the recommendation of the Executive Committee to approve Judge Rosenblatt as chairman and Chris Anderson as vice chairman of the Commission for fiscal year July 1, 2009 through June 30, 2010.

Mr. Walker seconded the motion. The motion carried.

Judge Rosenblatt added that by statute we are required to re-elect the chair and vice chair of the Commission every year.

The second recommendation of the Executive Committee pertains to the approval of the new committee memberships and their authority.

Judge Rosenblatt said that the main goal is to have a quorum for all committee meetings. We also do not want people serving on too many committees. We have reduced the number of committee members on each committee from six to five.

Ms. Jankowski will serve as chair of the Personnel and Training Committee; Mr. Anderson, as vice chair of the Commission, has agreed to serve as chair of the Budget Committee, and Mr. Walker will remain as the Policy and Procedures Committee chair.

Mr. Johnson added that every year we are required to review and vote on the authority of the subcommittees. In reviewing it, Mr. Johnson discovered what is believed to be a typo in Section D2 regarding the personnel and training committee. It reads:

“The Personnel and Training Committee shall have authority to conduct interviews of applicants and make recommendations to the full Commission for the Executive and Deputy Director positions and to review and make recommendations to the full Commission regarding training programs.”

He proposed an amendment to strike out the language “and Deputy” and change “positions” to “position”. This amendment mirrors the language of the statute.

Judge Hanson moved that pursuant to the recommendation of the Executive Committee the proposed authority and membership of the Committees of the Commission be approved for the term beginning July 1, 2009 ending June 30, 2010. Mr. Walker seconded the motion. The motion carried.

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

Judge Hanson reported that the Budget Committee met with staff on May 21, 2009 and reviewed the proposed VIDC operating budget for fiscal year 2010. Each Commission member has a copy of the operating budget the committee voted to recommend to the full Commission for adoption.

Mr. Johnson introduced Bryan Aud as our Director of Budget and Finance and Bonnie Farrish our former Fiscal Director who retired and is currently working for us part time.

Mr. Johnson highlighted the major changes in the budget report.

Salaries are down \$275,033 which is part of our reduction plan, in which we are holding some positions open. We have had some full time positions that in the past we split to create two part time positions. Previously, we showed those part time positions in the full time category which is inaccurate. There is no substantive change, rather we moved the part time positions into a more accurate category.

Fringe benefits have gone down this year. Our contribution for the deferred compensation plan has gone up; more of our employees are using this plan.

The net result for personnel cost is that they will be less expensive in the coming year by about .7% than in the previous year.

Freight services. This has gone from \$5,000 to \$18,000 because we have planned to move two offices this year. Our Arlington and Manassas offices are being moved into one lease space. The big expense will be moving all of the computer equipment but the end result will save us about \$53,000 a year for the rest of the term of the lease which is pretty significant. This will put the Capital office in a more competitive location. Both spaces will be tight; however, it is a really nice building that we are locked into for another eight years. The move is supposed to be accomplished June 20th. We are trying to work

around a capital trial that is in July. Everyone has been working hard to get the move done and it is on schedule. We have one other office moving later in the year.

Telecommunications. The cost of moving all of the phone equipment is expensive but is a one time cost.

Printing Costs. Our printing costs are going down. We are emailing training program participants the information ahead of time to save on printing costs. We have budgeted 25% less this year.

Employee Training. This cost is down significantly because the annual conference, which is a cost of about \$80,000, is not in the budget. We will talk about the annual conference but it is not something we are budgeting for now. We have other options to get the employees their CLE's that are working quite well. In a large part, because of all that, the cost of travel is also going to go down. Travel is one of the big costs associated with training, getting everyone across the state to one location.

Recruitment Advertising. We budgeted less for this because our turnover is really low right now. The job market is very tight so we are not having as many openings to advertise.

A couple of years ago we had a paid intern program in the summer and were excited because we had about 30-40 interns. This was a first for us but we no longer have this program. This summer we are going to have about 100 unpaid interns, so far we have 90.

There was discussion about the summer intern program and the offices that are using them. The administrative office is using them as well. They are all carried as a special category of employee so all the paperwork needs to come through the administrative office. The Alexandria office has interns throughout the school year paid for by Catholic University.

Skilled Services. This is a big ticket item for us; much of this is the case study that is nearing completion. When we set up this contract, it was set up for a series of payments, three of which are coming due this year and were budgeted and planned. The case study is projected to end in September.

IT Design and Development. We are budgeting this but it would be nice if we didn't have to spend it. We have to have an audit in order to meet the VITA (Virginia Information Technology Agency) security standards. The security standards are a state mandate. The cost to have an outside agency come in and audit our IT is about \$75,000. This year the APA (Auditor of Public Accounts) did it for us. We do not know if that is available for us next year. We are budgeting this money in case we need it.

The amount that is budgeted is based on an average of the bids that Mr. Ernouf, our IT Director, initially received when we thought we were going to have to contract for the audit this year. We later heard the APA was planning to audit us on all of the items in that bid so we just let the auditor do it for the first year.

Ms. Geiger added that the standards and guidelines that VITA puts out change annually. Depending on what they require in their audit and what the APA is auditing, there may be gaps. This year it happened to fit. We may be able to get by with the auditor doing it but we may have to get an outside group to do it so we are planning for that.

Mr. Johnson said that the APA does not audit every agency every year. We have been audited every year for about six years now. Eventually, they will not audit us every year. This is typically what happens, a decree comes down, it is an unfunded mandate, and you have to figure out a way to do it. Because of this requirement, we worked it into the budget.

Computer Hardware Maintenance. This figure is down because we now have new computers. One of the reasons we purchased new computers is because the maintenance costs were expensive.

Software Maintenance. This brings the budget in line with what the expenses were.

Mileage Reimbursement. This expense is down. We implemented the new car rental program. If you are driving more than 100 miles in a day, you are required to rent a car through Enterprise Rental Car. The state has a contract with Enterprise that is extremely inexpensive. If you are driving more than 100 miles, it is less expensive to rent an Enterprise car which is bringing down the mileage reimbursement costs.

Travel – Public Carriers. We have reduced the amount of money we pay for overnight travel agency wide. Part of it is that we are doing much of the training through DVD's. The net result is the total contractual services are up about three percent and would have been a lot more but we made some adjustments to account for things like the \$75,000 for an outside audit. Actually we are spending a lot less money.

Total Supplies. We budgeted less. The offices have done a nice job of trying to cut back on their spending.

Food and Dietary Supplies. We have a water cooler in the training department so we can offer it to people coming in for training. The Newport News office is in an old building and does not have fresh water other than the sinks and toilets so we allowed them to get a water cooler.

Plant and Building Rental. The increase in rent includes all the leases and the reduction from the Northern Virginia Capital office. A continual problem is that our leases have escalators or they come up for renewal and always get more expensive. We have not been given more money for additional rent for several years now. The 4.5 percent increase in this item would have been more had it not been for the \$53,000 savings from moving the Northern Virginia Capital office.

Equipment. There are some reductions. We are replacing our oldest copiers which will be an increase. When copiers get to five years old they get more expensive because the maintenance contracts get higher. There is a need to replace them while we can.

There are some unusual looking expenses in some of the offices. Halifax, which is a small office, has \$33,000 in mileage. This is really cost effective for us because this office covers Lunenburg and Mecklenburg. It's much less expensive for them to drive than to have satellite offices.

Some offices deal with several regional jails and these offices are not getting more money for that. Some of this is the public defender managing and trying to meet what their expenses usually are. You might notice that some offices have more mileage than others.

Mr. Johnson welcomed David Lett who just arrived.

There was discussion about the fringe benefit package. Ms. Geiger said that if the total cost of salaries goes down, the state is not paying as much for benefits for the vacant positions. The other part is that the state renegotiates the health benefits plan every year and there is usually a savings in that renegotiation.

There was discussion regarding the annual conference. The general consensus was that the annual public defender conference training is very beneficial. The networking and camaraderie among the

public defenders is helpful to all of them. It is the only opportunity for the public defenders and the assistants to get together which is just as important as being in a classroom.

Mr. Anderson said that the networking among the lawyers is important; to bounce ideas off of your contemporaries, you come up with things that you ordinarily might not have on your own and makes you a better lawyer. Ultimately, we want better lawyers who are there for a reason and we ought to make the annual conference a priority.

Mr. Walker added what he would like to see at the conference is to have break out sessions which would be small working groups from different offices for an hour or two and for them to get to know each other well enough to call and get answers if they can't get answers in their own office.

Mr. Johnson said that another benefit of the annual conference is for people in small remote offices, to see that they are part of a big system. The reason we cut it is because we are 92 percent personnel and rent so there are not a lot of options to cut. We were planning to track the situation and by the September Commission meeting, if things are looking better, we were going to present a plan to the Commission and ask to do an annual conference next year (FY 2010).

Mr. Johnson added that Budget and Finance provided a report entitled "Expenditures through April and Year-End Forecast". The estimated year-end balance for FY09 is \$203,877. This is an estimate based on what our bills and expenses are going to be and our anticipated turnover and vacancy. The figure is actually a little bit higher than that but that is the amount we would finish the year with, this is compared to \$1.4 million last year.

We spoke with the Department of Planning and Budget yesterday; they are part of the Executive Branch and they develop the Governor's budget. As part of the budget reductions, we had to come up with \$450,000 this year and \$450,000 next year; all of this is in the proposed budget.

We identified a source for \$27,000 this year and \$94,000 in the coming year. There was a senior/deputy position in the Arlington office, which had been occupied by Vanessa Hicks, who has since become the public defender. That office had too many senior/deputy positions and in the future we would like to move that position to another office that needs it. Since it was a vacant position, we decided we would hold off filling it for the coming year which would generate \$94,000 in savings and that got us to the level of reductions we needed. The Department of Planning and Budget is going to allow us to pay it now, out of the \$203,877. So instead of just pre-paying the \$27,000, we will pre-pay another \$94,000. We are going to finish the year with a little more than \$100,000. That frees up that \$94,000 next year. We can hang on to that to see if they come back to us for more money, but if it looks like they're not going to, part of that can fund an annual conference.

Mr. Johnson said that he would like to present a plan for an annual conference to the Commission at the September Commission meeting.

There was discussion regarding extra money agencies have at the end of the year and what happens to that money. There was discussion about another shortfall.

Mr. Hade said early indications right now are running slightly over one percent short of the projected revenue. They think that is going to fall in line to be slightly under one percent. They are going to miss the projection, but not by much. For right now that is good news. What happens over the next six months is anyone's guess.

Judge Hanson made a motion that the budget, as recommended by the Budget Committee, be approved by the full Commission. Ms. Jankowski seconded the motion. The motion carried.

Mr. Johnson said that we have had a ninety day hiring freeze and it has been in effect for several months. The Richmond office is losing four attorneys in August. They are forming their own law firm. For two of those positions we will do a thirty day freeze and the other two positions it will be ninety days. We would like to keep the ninety day hiring freeze and on a Commission meeting to Commission meeting basis, report what our cash situation is and as soon as we can I would like to back it down to sixty days. Right now it is keeping us with a little cushion and able to pay our bills.

There was discussion regarding the expense of paying out accumulated leave when an employee terminates. There are benefits for public defenders when employees are not scrambling to use all of their annual leave and the advantage is that they are in the office working.

A decision was made to further discuss this at the next Budget Committee meeting.

The next item on the agenda is policies and procedures.

Ms. Geiger reported that when it came time to pay the Bar dues for our attorneys this year, we realized we had inadvertently dropped the word "full time" in front of attorneys in the policies so we are requesting that the Commission approve an amendment to put "full time" back into the policy.

Mr. Walker moved to add "full time" back into the policies. Judge Hanson seconded the motion. The motion carried.

Ms. Geiger said that the second amendment is to Section 6.7 Overtime Leave of the policies and procedures manual. The proposed change was prompted in connection with our IT servers that we are rolling out to the offices and the fact that two of our IT employees are non-exempt, and therefore eligible for overtime pay. It will take a lot of hours to get thirty servers rolled out. Amy Williams, our Human Resources Manager, has been working with Ed Ernouf in scheduling and work management while they are doing this work but in the event that they will need overtime, we wanted to make sure that our policy is what it should be. The current policy allows an employee to ask for payment in lieu of leave. What we would like to do is have that amended to remove that option and have the employee paid in leave time.

In order to prevent a slew of overtime hours from the field offices, we have added some provisions that put some limitations on this. The limitations are that: (i) there has to be an extraordinary need; (ii) there have to be funds available in the event the employee earns overtime and then leaves the agency, and (iii) the public defender has to request and receive permission from Mr. Johnson prior to the approval.

Mr. Johnson added that most of our employees are exempt from this. Lawyers, investigators, and mitigation specialists all know coming into the agency that they will be working more than forty hours a week. The support staff is not exempt from this but we do not generally allow overtime. With these servers, we are trying not to interrupt the offices and the IT people are working late into the night and are on the road. We want to compensate them but we do not want to open up a door for something we cannot do, which is to have a lot of overtime.

Ms. Geiger said that we also tightened up some of the language in that section. Paragraph F includes new language with regard to options for people who are going on active military leave. There are a couple things we changed based on the current statute and laws.

The main reason we went into that section is to amend it to provide that instead of an employee having an option to request a monetary pay out, we will provide them with leave hours.

There was a proposed amendment to Section 6.7 Overtime Leave, B iii add "For field offices, the Public Defender..."

Ms. Geiger stated that there is another section in the beginning of the policy manual in Chapter 1 that says when it is related to the administrative office staff; Mr. Johnson has the authority to make decisions. Generally when it is the field offices, the chief defender has that authority. Here we are saying if an employee may be granted permission to work over forty hours in a work week in Paragraph B, two conditions must be met. If we add the field offices language in Subsection iii, the public defender has a third requirement, which is to ask Mr. Johnson's permission.

Insert the word "and" after Subsection ii. So it would read "Funds are available; and". For Subsection iii, insert "For field offices the Public Defender....."

Mr. Douglass made a motion to accept the overtime leave policy as amended. Mr. Lett seconded the motion. The motion carried.

Mr. Johnson reported that he involved the public defenders in a conference call to advise them of the possible impact of a pandemic. We are required to have a plan. At the moment it seems the panic has died down and that was predicted. The real concern is that in the fall or winter if it comes back with a vengeance, a plan needs to be in place. There have been thirteen confirmed cases at the Bon Air Juvenile facility, which our employees at the public defender office in Richmond regularly visit. We have been actively planning, and the public defenders have been asked to do certain things in their offices. We have outlined here what we have done so far.

This is also an opportunity for everyone to update their Continuity of Operations Plans (COOP). We have added a new section because the disaster plans as they stood dealt with what to do if you can't get into the building. Now it is what you do if everyone is sick. It is possible for 30-40 percent of your workforce to be out. We have instructed the chief defenders to have plans in place.

The next item on the agenda is VSDP benefits changes.

Ms. Geiger said that the 2009 Appropriations Act that was approved this year by the General Assembly and the Governor made a change to the Virginia Short Term Disability Program (VSDP). This is informational only to demonstrate another cost saving measure in the budget crunch. The two most significant changes are that a new or re-hired employee must be continuously employed by the state for a year in order to be eligible for Virginia short term disability. An employee will still accrue sick leave and family personal leave but will not be eligible for short term disability.

The second is when an employee uses short term disability. Right now the policy is that an employee starts receiving 100 percent of his/her salary while out and that continues for a specific amount of time, then it drops to 80 percent and then 60 percent. This can be supplemented with annual leave to stay at 100 percent. Under the new policy, unless an employee has been here five years, it drops right to 60 percent.

The next item on the agenda is the APA audit report.

Ms. Geiger said that there is a sheet titled "Audit Findings and Recommendations" in the binders. Annually the Auditor of Public Accounts audits our financial records and operations. This audit period generally runs a year behind so the period they looked at was July 1, 2007 to June 30, 2008. The objectives of their audits are to review the accuracy of financial transactions, the adequacy of internal controls, tests compliance with laws and regulations, and to review any corrective actions taken from any prior findings on previous audits.

The recommendations and findings from this year are that they looked at the access to our internal financial system which is IDSS and the Commonwealth Accounting and Reporting System which is CARS. They said that access wasn't appropriately segregated. There are different levels of access for these systems and different employees have different access levels. There was the possibility of having inappropriate transactions processed. We figured out a way with our existing staff to make the corrections they recommended. We limited some access and provided a backup that does not have the inappropriate access level for another application. We have already addressed this finding.

The second finding was that they felt we needed to be able to audit our transactional history in IDSS to determine if there is a suspicious or inappropriate transaction, who did it, what happened. Right now the way it is entered, there is no way to know who did it. The auditors would like to see something more specific. We are still working on that with the IDSS programmer.

The third finding was that we periodically need to review that access level. We had scheduled it but did not review it. We have set up an annual date to review that access and make sure that it is still appropriate for each person. We have taken corrective action on that finding.

The fourth is the lengthier of the findings and was that we are not in full compliance with the Virginia Information Technology Agency's IT security standards and guidelines.

Mr. Johnson noted the reference on page 2 "Comply with the Commonwealth's Security Standards". The Commission does not have a complete information system security program. The last audit found that we did not HAVE an information security program. So this is a big step for us. It requires manpower and money, and is a big project.

The position we always take with the APA audit is, thank you, we appreciate it, and we will correct it. Mr. Johnson believes that they appreciate our attitude and that we work to correct it.

Ms. Geiger continued with the IT security and guidelines. The guidelines change every year. This is an ongoing challenge keeping up with what the standards and guidelines require. We have not completed our risk assessment. We feel that we do not have all of the skills and knowledge to take this on so Mr. Ernouf has been looking at getting a consultant to come in and do our initial risk assessment.

There was discussion about looking at all of the agency's processes and procedures, access, how transactions are performed, and where we are vulnerable.

There is a "threat management policy" that we are required to follow. To do so, we installed a program called SNORT which captures all of the activity on all of the computers and does a report. It will hone in on something that looks irregular. In doing that, we found something on one of the machines in the administrative office and we can now identify that there is something funny with that machine. The amount of data that it captures is phenomenal. We have started to comply with that policy. We need to write rules so that the program will only capture the data we need.

There is a password management policy that we will be in compliance with once the servers are rolled out. There was discussion regarding password requirements to access a computer.

Ms. Geiger said that the last portion of the IT component for the APA audit is the secure facility policy. This is securing not only the data but also personnel. Each time a lease is up for review, we go out and look at the facility, look at what improvements we can make for securing it for our personnel, and what improvements we need to make to secure our IT equipment that is stored there. We also have multiple

backups for the data. The data for the administrative office is stored at the VITA Data Center and is also backed up to the Richmond office.

We have started complying with the requirements, but the list is so long and it changes so often that we may never be 100 percent compliant.

There was discussion regarding a time-line for becoming compliant. There are only about three agencies that might be compliant. Part of the reason that we are not in compliance is monetary and another part is manpower.

For the September Commission meeting we should be able to provide the Commission with the information of the status of the requirements and the deadlines we have already set out along with exemptions that we have.

Mr. Anderson suggested having the plan presented in language where we hope to be in full compliance within six months or a year or when ever is appropriate.

This information will be presented at the September meeting.

Mr. Hade suggested that some of these things cannot be done without additional manpower so one of the things we might want to do is in our response say that we can get it to this point but to get it to the next point we need additional positions, then submit a budget to them (you won't get the positions) but when the APA tries to write you up again, you can say, we identified what we needed, we asked for it, we did not get it.

The next item on the agenda is training.

Mr. Johnson said that because we did not have the annual conference this year we are looking at ways to supplement for that.

On May 15th we had a forensics training. We had a representative from every office with a total of about forty people for the training. It was by a wide margin the best reviewed training we have ever had. The evaluations were incredible. Bill Thompson was very ill and could not make it so the other speakers stepped up. Steve Benjamin and his partner, Betty Lane concluded the program with a frank discussion of the current state of the Virginia Lab which turned out to be a great section.

We have a plane ticket for Mr. Thompson that has not been used and I think he is going to come and do a training for us in the next twelve months.

We are now in the process of editing the DVD's. The person from each office who attended the training is going to facilitate a video replay of the DVD in their office.

Ms. Ferguson is planning a capital training for later in the summer. We will use the forensics DVD's for part of that training. This will benefit the private bar also. We did not have the benefit of getting everyone here but the quality of the training was fantastic.

Mr. Johnson added that the agenda for the boot camp coming up the end of July is in the materials. This will be our sixth boot camp. Mr. Hopkins, our Training Director, will not be back from military leave for the boot camp. We have put together an advisory committee of public defenders, some of whom had been involved in boot camp in previous years. We are changing the order a little. Everyone will do two jury trials. The way it was before either you prosecuted or defended, this way each attorney has the opportunity to do both.

This is modeled somewhat on the National Institute of Trial Advocacy and somewhat on the trial advocacy class Mr. Johnson teaches at the law school.

The first three mornings there will be sessions teaching how to prepare for a trial, with small group workshops in the afternoons.

We have speakers from within and outside of our system. Clair Cardwell, Craig Cooley, and Carrie Grady will be speaking and Vikram Kapil, a former public defender will also be speaking. This is going to be a very good program. It is going to be very labor intensive. We are doing double the number of juries. We need 96 volunteer jurors and 96 witnesses. The training staff has been working hard on putting this together. Many of our interns will be here to help out as jurors. Judge Rosenblatt will open the program for us.

We would not be able to do this without the law school allowing us to use their facilities and are very grateful to them.

We need to get the chief defenders together for management training once a year. We did a cost analysis and even though there are seven offices in Tidewater it will be less expensive to hold it here in Richmond. Mr. Johnson and Ms. Geiger meet individually with each public defender and even though this is time consuming it is necessary. It is a rare opportunity for them to talk with them one on one. We will also review their performance evaluations at that time. This will be late September or early October.

Every month we hold the certification trainings. These have been getting a record number of attendees. Once Mr. Hopkins returns we would like to refresh the certification training. Mr. Hopkins is due to return the end of July.

Mr. Johnson went on to say that one of the problems we have because the certification trainings are free is that people do not show up, about sixty percent of the people who register show up for the trainings.

Ms. Geiger reported that for the legislative CLE we are putting together a one hour legislative update and this will mostly be the bills we track for our agency. The format covers what the issue in that is addressed by the bill, what difference the legislation made, and how it affects the representation for our clients. We are hoping this will be ready by July 1st.

This will be our maiden voyage with a new presentation software called Articulate. You create a PowerPoint presentation, script it, add the voice over, and then upload it or burn it to a DVD.

Mr. Johnson said that one main project we have going on is the move of the Manassas Capital Defender office into the Arlington lease space. Another is the IT server roll out that we have gone over.

Ms. Geiger added that one of the current security standards guidelines is access determination and control and Guideline 8.2.2, Requirements. The language says "you shall perform a background investigation of all internal IT system users based on access to sensitive IT systems or data."

We previously had to identify all of our main systems and whether they contained sensitive data. We have two; the financial system and the case management system both have sensitive data. That includes every employee except Diane Pearson and Wanda Brown, who have some access to sensitive data. We will, hopefully, at some point, be bringing to the Commission a policy on background checks. The minimum that we can probably do is a fingerprint check. We have put together a work group to figure it out. We can grandfather existing employees. We have investigated some of our options and have looked

at Department of Human Resources Management (DHRM) to see what their policy says. This again, is one of those requirements under the guidelines that requires to identify who has access to our information and to protect it.

Mr. Johnson added that every employee in the agency has some access to sensitive data by their job description. Also the majority of our employees are attorneys and the State Bar does a background check and we might be able to rely on that. The state police might be able to help us with fingerprint cards.

Ms. Geiger reported that ARMICS (Agency Risk Management and Internal Control Standards) is a requirement to annually review our financial internal controls, do a risk assessment, and review how management approaches ethical concerns regarding financial information. There are three stages, the first stage is management and risk assessment overall review, the second stage is the transaction audit to determine any weaknesses or where corrections are needed, and the third stage is the corrective action plans, anything that was found would be fixed here.

They have compressed all of this and a certification is due June 30th. We have finished the first stage and have brought Millie Sauer back, who was with the Department of Accounts (DOA) for many years, and is retired. She was recommended to us by the director of DOA to do stage two for us. She started June 2nd and thinks she will finish rather quickly since she has done this before for us. She will identify some of the places where we need to make corrections and then we will be able to file our required certification by June 30th.

Mr. Johnson added that Ms. Sauer is in demand because of her background. She is doing this for several agencies. We had her take the cyber security training that everyone is required to take and we are the first agency that asked her to do that.

Ms. Geiger said that we have been contacted by two attorneys who had offers from law firms and apparently these were soft offers because what has happened is that the law firms will pay them and the attorneys will work for us for free. Both of these attorneys have requested to start in October and will work for a year. Our HR manager, Amy Williams has been talking to the law firms about the rules, who has what authority, and other details.

Mr. Johnson explained that what he thinks happened is that the law firms made several offers and then decided to defer some of those offers for a year but offered for them to work as assistant public defenders. This is a win-win situation for us; we just need to work out the contractual deals of who is responsible for what. One attorney is in Fairfax and one is in Arlington.

There was discussion about having these attorneys attend boot camp the end of July and whether or not it would be of benefit to them. The suggestions included having some type of training even if it is not boot camp.

Mr. Douglass said that a fair amount of this has been seen around the country, we have not seen it with the Richmond firms yet. Several Washington law firms have done this. Most often they are requiring the deferment of a year and then trying to assist the associates in placements in either non profit agencies or public defender offices. Odds are that these two people coming to public defender offices that the deferment was not by choice but the selection of the public defender offices was by choice.

Mr. Johnson would like to invite them to the boot camp but since they are not employees, can we pay for their hotel?

A suggestion was made that we extend the invitation and impress upon them how much we think they should attend the boot camp and ask the law firm to pay their hotel and if they won't then we will if we have the money.

Mr. Johnson explained that boot camp consists of morning lectures and the afternoon they break up into small groups. Each group is led by two public defenders in small rooms doing exercises and drills. We can tape the lectures. What we have seen from the past is the real value is the small group work and the mock jury trials that they do Thursday and Friday.

The next item on the agenda is the hiring update.

Mr. Johnson reported that Mr. Ed Ungvarsky is the new capital defender in the Northern Virginia office. He was the trial chief in the DC public defender system and supervised a team of sixty trial attorneys. He is a Yale graduate. He really impressed us in the interview. Mr. Lett and Mr. Benjamin were in the interviews. He is taking a very large pay cut to come on board but he is very excited. He will join us at the end of September. He has several homicide trials already scheduled up until that point. We were very pleased that he accepted the offer.

The Southeast capital position is being advertised now. This is the position vacated by Joe Migliozi.

Judge Rosenblatt said that he has started visiting the public defender offices and has been to four so far, including: Roanoke, Petersburg, Bedford, and Lynchburg. He invited the other Commission members to do the same but to call ahead. He said that every office is different but the enthusiasm is uniformly high. He said that we have some really good people.

He added that Mr. Johnson has invited him to represent the Commission at the NLADA's (National Legal Aid and Defender Association), annual conference in DC the end of June. It is actually the chief defenders meeting.

The next Commission meeting is scheduled for September 10, 2009.

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

The meeting adjourned at 1:10 pm.

Respectfully Submitted:

Approved By:

Diane Z. Pearson, Administrative Assistant

David J. Johnson, Executive Director