

Virginia Indigent Defense Commission
Briefing for House Appropriations
General Government
Sub-Committee

Tuesday, January 22, 2008

Historical/Background Information:

A public defender system was first authorized in the Commonwealth in 1920, by a statute permitting such a system in localities with over 100,000 population.

The Public Defender Commission (PDC), predecessor to the Virginia Indigent Defense Commission (VIDC) was created in 1972 with the authority to establish three pilot Public Defender Offices.

Review of the results of the pilot Public Defender Offices programs and the ongoing successful performance and efficiency of the offices, led to the expansion of the Commission and an increase in the number of Public Defender offices.

The system of Public Defender offices was decentralized, with each individual chief public defender hiring, firing and supervising his employees and most other matters concerning his office. A small central office was created providing only administrative functions, such as payroll, health benefits and procurement services.

The public defender system has steadily grown from the initial three pilot offices to its current 25 public defender offices and 4 regional capital defender offices.

In 2004, the Virginia Indigent Defense Commission (VIDC) was established partly in response to a 2002 report issued by the Virginia State Crime Commission in response to House Joint Resolution 178 of 2000, which requested the Crime Commission to study the quality of representation, the efficiency of service and cost effectiveness relative to the provision of indigent defense in Virginia.

The VIDC was provided with specific authority and duties relating to court appointed counsel certification and the operations of the public defender offices.

The statute was amended during the 2006 General Assembly session. Among other changes, the new language specified that the Commission shall be supervisory and have sole responsibility for the powers, duties, operations and responsibilities imposed by the statute.

The membership of the Commission is dictated by statute and includes:

- The Chairmen of the House and Senate Committees for Courts of Justice or their designees;
- The Chairman of the Virginia State Crime Commission or his designee;
- The Executive Secretary of the Supreme Court or his designee;
- Two attorneys officially designated by the Virginia State Bar;
- Two persons appointed by the Governor;
- Three persons appointed by the Speaker of the House of Delegates;
- Three persons appointed by the Senate Committee on Rules.

Mission Statement

The Virginia Indigent Defense Commission will support the Commonwealth's Constitutional obligation to provide legal representation to indigent criminal defendants through the administration of a state public defender system and the certification of court appointed counsel.

Challenges

1. Turnover and Vacancy:

- The VIDC turnover rate reached a historic high of 27% in calendar year 2006.
- The constant turnover has caused a hiring/training cycle. Approximately 1/3 of the attorneys employed by the Commission in 2006 were in their first year of practicing law and over 1/2 had less than 2 years of experience.
- Vacant positions remained unfilled for long periods of time and Public Defender offices were unable to maintain the high volume of cases previously handled.

Challenges

2. Compensation:

-A 2005 DHRM study found that in exit interviews, over 75% of departing employees identified low salaries as the primary reason for leaving. High caseloads were another significant factor.

-In 2006, the entry level salary for an Assistant Public Defender was \$38,183. It had been stagnant for several years.

-Filling vacant positions was extremely difficult due to the low starting salaries for attorney positions.

Actions Taken

To address the turnover and vacancy and the low compensation issues, the following actions were taken:

1. In late 2006, with guidance from the Auditor of Public Accounts, the VIDC used internal savings generated by the turnover and vacancy in order to raise entry level salaries for Assistant Public Defenders from \$38,183 to \$42,640.
2. On November 25, 2007, VIDC employees received a special 9% salary increase from the General Assembly, raising entry level salaries for Assistant Public Defenders from \$42,640 to \$48,163.
3. On July 1, 2007, the total FTEs of the Commission were increased by 26 positions. Sixteen of the positions were provided to the Public Defender offices, 2 were specifically provided for the enforcement of the Standards of Practice. Eight of the positions were added for the 4 Regional Capital Defender offices.
4. On November 25, 2007, the VIDC regional capital defender office attorney salaries were increased 24% in order to assist in hiring and retaining capital-qualified attorneys for the offices.

Effects of Actions Taken So Far

11.3% increase in number of Public Defender office cases opened:

FY07 (first six months): 45,543

FY08 (first six months): 50,671

Effects of Actions Taken So Far

Turnover rate:

FY07 (first six months): 61

FY08 (first six months): 52