

2022.07.15 MEETING MINUTES

Commission on Indigent Defense Services

Quarterly Meeting – July 15, 2022

Location: Forsyth County Public Defender Office, Winston-Salem

Commissioner Attendees: Dorothy Hairston (Chair), Art Beeler (Vice-chair), William “Gus” Anthony, Joseph Crosswhite, Caitlin Fenhagen (virtual), Staples Hughes (virtual), Stacey Rubain, Miriam Thompson

Staff Attendees: Chad Boykin (Financial Services Staff Attorney), William Child (Budget Manager), Kristen DeSimone (Legal Assistant), Whitney Fairbanks (Deputy Director), Aaron Gallagher (Fiscal Officer), Stephen Lich (Researcher), Sarah R. Olson (Forensic Resource Counsel), Susan Perry (Legal Assistant), Mary S. Pollard (Executive Director), Chris Sadler (Research Director)

Local and State Public Defender Program Attendees: Paul James (District 21), J. Chad Perry (Chief Special Counsel), Wendy C. Sotolongo (Parent Defender), Eric Zogry (Juvenile Defender)

The meeting was called to order by Dorothy Hairston Mitchell, Chair, , who then proceeded with the welcome and conducted a roll call of members participating virtually.

Approval of April 8, 2022 Quarterly Commission Meeting Minutes

Hairston Mitchell opened the floor for members to discuss the minutes from the immediate last Quarterly Commission Meeting.

Commissioner Beeler moved to approve the minutes without amendment. The minutes were approved by unanimous vote.

State Government Ethics Act Reminder

Hairston Mitchell reminded the Commissioners of their responsibilities under the State Government Ethics Act.

Introductions and Welcomes

Hairston Mitchell welcomed Christopher Sadler as the new IDS Research Director and Miriam Thompson as the newest Commissioner.

Updates

Executive Director Mary Pollard the provided the Commission with an update on IDS business included a the status of the new contract system and staff’s continued work on a long term plan. Pollard gave the Commission a update on the 2022 Legislative Session noting that the Appropriation Act impacted IDS and Public Defender programs by:

1. Separating Districts 1 and 2 so that District 2 was now a standalone office;
2. Expanding District 5 into Pender County;

3. Providing cost of living adjustments to state employees ranging from 3.5 to 4.5 percent; and
4. Providing IDS a modest budget increase.

Budget & Spending

Budget Manager William Childs IDS advised the Commission that spending in FY 22 was within anticipated levels. While fiscal staff was still working on the final numbers he expected that IDS would revert less than \$3 million to General Fund. He noted that OSBM expected to allow IDS to carryforward about \$10 million in unspent funding from FY22 and ended by highlighting the fact that staff predicted the PAC fund would remain solvent through FY 26, barring unexpected changes.

Report of the Capital Defender

Chief Capital Defender Robert Sharpe, Jr. updated the Commission on the continuing operations of the Office of the Capital Defender highlighting the offices continued efforts to recruit and support qualified capital defense attorneys.

Committee Reports

Appointment Committee

Deputy Director Whitney Fairbanks informed the Commission that the NC Association of Women Attorneys had appointed Goldsboro attorney Tonya Barber to the Commission.

Diversity Committee

Forensic Resource Counsel, Sarah Olson, let the Commission know that the Diversity Committee had not been able to meet between the April 8 and July 15 meeting but advised them that the Committee would meet in July or August and would take up the demographic data from the NCAOC and NCRED's statement on confederate memorials and memorabilia when it did.

IDS Rules & Policies

Providing Legal Representation in Juvenile Murder Cases

Juvenile Defender Eric Zogry presented an update on his office's continued work on a juvenile murder program. The Commissioners presented expressed their support of the program and overall satisfaction with where he was with its development. Commissioner Hughes asked Zogry if he had developed procedural rules such as billing rules or forms that would need changes before implementation. Hughes also suggested that Zogry work with the Clerks on the front end to ensure smoother roll-out.

Zogry confirmed that the office would not be able to implement the plan before the October meeting and promised to report back at the next Commission meeting on some of Hughes's suggestions and other progress. He asked the Commission to at least informally approve of his plan to begin identifying and recruiting qualified attorneys. The Commission agreed.

Review of Director's Decision

Fairbanks pointed the Commission to a memo in their packet on Board Governance, noting particularly the sections on recruitment and diversity. She suggested the Commission consider developing an appointment matrix for use with the appointing authorities who seek Commission input. The Chair asked that the Appointment and Diversity Committees work together to create a matrix.

The Commission also directed staff to write Representative Moore sooner rather than later and remind him that Commissioner Anthony would not be able to serve after January 2023 since he would be taking a seat on the Gaston County bench.

Executive Session

Commissioner Anthony moved that the Commission go into executive session to discuss personnel and litigation matters. The minutes of the Executive Session are being withheld from public inspection pursuant to and to G.S. 143-318.11(a)(3) and (a)(6). The Commission returned to open session around 2:00pm.

Hairston Mitchell

Commission Business (cont'd)

Quarterly Misconduct Report

Upon return from the executive session Fairbanks went over the IDS quarterly Commission report on attorney misconduct. The Commission asked that the review committee consider suspending or revoking attorney Bill Shillings' vendor status due to the nature of the misconduct.

Revised Policy on Adverse Decision by IDS Director

Fairbanks presented the revised "Adverse Decision of Executive Director and Procedures for Review" to the Commission for consideration. She advised that many of the revisions were stylistic but pointed out one substantive change. The revised policy clarified the Executive Director's authority to act where there were reasonable concerns about the appropriateness and accuracy of an attorneys billing. All Commissioners present voted to adopt the revised policy effective immediately.