

Virginia Indigent Defense Commission

Presentation to the House Appropriations
General Government Subcommittee

February 2, 2010

Turnover and Vacancy Rates

- During the 2007 session, the General Assembly appropriated funds to increase the salaries of employees of the VIDC, and to provide additional positions.
- The goal of the appropriation was to reduce the turnover rate, which had reached a high of 27%.
 - A lower rate of turnover and vacancy would lead to more stability in the offices and as a result increase the number of cases the public defender offices could carry.
- The appropriation was also intended to assist in the recruitment of capital qualified attorneys and allow the capital offices to take on additional cases.

Turnover and Vacancy Rates

- The VIDC's turnover rate has decreased significantly since 2007.
 - In FY2008, the turnover rate was 19%
 - In FY2009, the turnover rate was 16%
 - In the first 6 months of FY2010, the turnover rate was 9.2%
- It is unclear to what degree this decrease is attributable to the current economic conditions and to what degree it is attributable to the increased appropriation.

Caseload Numbers

- The VIDC defines a case by the client rather than the charge. So, if a person is charged with 3 counts of grand larceny, it is counted as one case.
- In FY2006, public defender offices handled 93,505 cases.
- In FY2007, public defender offices handled 94,342 cases.
- In FY2008, public defender offices handled 103,518 cases.
- In FY2009, public defender offices handled 107,153 cases.
- For the first two quarters of FY2010, the public defender offices has handled 52,623 cases.
- The numbers of cases handled by public defender offices represents a 14.6% increase over 3 years.

Caseload Numbers

2007 Additional FTE Positions

- 18 positions for Public Defender offices
- 8 positions for Capital Defender offices

Total positions for the agency increased from 514 to 540.

This represents an increase of 5%.

The total number of cases handled by the public defender offices increased from 93,505 to 107,153.

This is an increase of 13,648 cases, representing an increase of 14.6%.

Budget Reduction Efforts

- In 2009, in order to create the necessary savings to meet the budget reductions for the past biennium, among other actions taken, the VIDC:
 - Instituted a 90 day hiring delay as a means to generate the necessary funds.
 - Froze through until FY11, three of the four new positions that had been allocated for the Capital Defender offices.
 - Eliminated two part time attorney positions (Fairfax and Arlington Public Defender Offices).

Capital Defender Offices

The Capital Offices continue to experience turnover. Since 2007, the chief capital defender positions in three of the four capital offices has turned over.

-Turnover and in turn, recruitment for capital qualified attorneys for the senior and assistant level positions remains challenging.

As part of the actions taken to meet budget reductions for the past biennium, 3 of the 8 positions allocated in 2007 for the capital offices have been frozen.

Proposal for 3 New Offices

- The Governor's budget proposes three new public defender offices, one each in Henrico County, Chesterfield County and Prince William County.
 - In its 2002 study undertaken as directed by HJR 178, the Crime Commission recommended Public Defender Offices be established in these jurisdictions indicating that the state might generate a cost savings to the Commonwealth by doing so.
- We have been asked to provide this subcommittee with a plan of how we would to bring the three new public defender offices proposed in the Governor's budget online as fast as humanly possible.

Proposal for 3 New Offices

We propose the following staggered dates for the office openings:

- Chesterfield – October 10, 2010
- Prince William - November 10, 2010
- Henrico – January 10, 2011

Proposal for 3 New Offices

The staggered opening dates are proposed based on a number of factors including:

- State leasing requirements (DGS)
- State procurement requirements
 - Lease space build out
 - Furniture (VCE)
 - Telecommunications/data lines (VITA)
- Recruitment and hiring process
- Limited administrative staff

Proposal for 3 New Offices

Anticipated staffing or size of offices:

- In reviewing the data provided by the Department of Planning and Budget, for the number of charges or individuals served in these jurisdictions during the past fiscal year, we anticipate that the Chesterfield and Prince William County offices would be similar in size and staffing to the current Newport News public defender office.
 - The Newport News office has 17 attorney positions.
- The Henrico County office would be similar in size and staff to the current Virginia Beach office.
 - The Virginia Beach office has 24 attorney positions.

Proposal for 3 New Offices

Statutory considerations and items not in the control of the VIDC:

- By statute, the Commission hires the public defender of an office. The public defender then hires the assistant public defenders and staff of that office.
- State agencies are required to utilize the Department of General Services, Division of Real Estate to obtain lease space.
- State agencies are required to comply with the Procurement Act.
- By statute agencies must go through VITA to obtain telecommunications services.

Proposal for 3 New Offices - HR

-By statute, the Commission hires the public defender of an office. The public defender then hires the assistant public defenders and staff of that office.

-If approved, funding will become available July 1 for new positions. Recruitment and selection of the chief public defenders could occur earlier, but employment would not begin until after July 1, 2010.

- Post ads as soon as Appropriations Act is finalized.
- Schedule interviews 2-4 weeks after posting ad.
- Reference checks and recommendations made within two weeks of interviews.
- Make contingent offers for post July 1 start dates.

-Ads for all other positions could be posted prior to July 1, allowing the newly hired chief defenders to screen and interview potential employees from July through November.

Proposal for 3 New Offices - HR

On boarding of new employees would occur on a rolling basis until all positions are filled.

New hire agency orientation would be handled by the HR staff.

Management training for the chief public defenders on policies, procedures and general state administrative requirements would occur simultaneously with recruitment of staff for the offices.

Existing staff to accomplish HR items: 1 HR Director, 2 HR Generalists

Proposal for 3 New Offices - Leases

-State agencies are required to utilize the Department of General Services, Division of Real Estate, to obtain lease space.

Executive Order 75 of 2004 directed a system-wide re-engineering of the Commonwealth's real estate processes. The Department of General Services (DGS) was given the responsibility of enforcing the Order. The Division of Real Estate Services (DRES) of DGS handles **all** aspects of lease negotiations for every agency of the Commonwealth.

For approval, all leases must be signed by the Secretary of the Administration. This process currently requires an internal review with DRES and the approval by and recommendation of the Director of DGS.

Proposal for 3 New Offices - Leases

Steps involved in the leasing process

- Identify facility requirements
- Identify potential properties that may meet the selection criteria
- Prepare and issue a Request for Proposals (RFP) to potential Landlords
- Gather and evaluate RFP responses against requirements
- Identify the most suitable locations
- Conduct negotiations with potential Landlords
- Perform financial analysis to support the decision making
- Coordinate schematic design of space to support negotiation of construction costs
- Verify conformance with 198 Usable Square Feet per person standard, reported on the Governor's *Virginia Performs* platform
- Develop lease documentation and exhibits to formalize the transaction
- Secure formal approval of the transaction from the Director of DGS and the Secretary of the Administration
- Monitor construction of improvements for conformance with approved plans
- Coordinate with the agency and the property management for occupancy and operation of the facility

Proposal for 3 New Offices - Leases

TIMETABLE FOR NEGOTIATING A NEW LEASE

The following steps from the lease process can be done prior to formal funding of a new office:

- Identification of facility requirements
- Identification of potential properties that may meet the selection criteria
- Preparation and issuance of the Request for Proposals to prospective landlords
- Gathering and evaluation of RFP responses against requirements
- Identification of the most suitable locations

Under usual circumstances, the steps indicated above take approximately six to eight weeks to complete.

Proposal for 3 New Offices - Leases

DRES requires a Certificate of Space Needs and Funding executed by the VIDC Executive Director certifying that the space is for a program approved and fully funded by the Appropriations Act.

-Based on this requirement, the VIDC would need to know that the budget as approved by the House, Senate and Governor includes the funding for the offices prior to proceeding with securing lease space.

Once the Certificate of Space Needs and Funding is submitted to DRES, negotiations with a potential Landlord can commence. DRES estimates that with a build out situation, the remaining eight steps of the negotiation and build out process will take approximately four months.

Proposal for 3 New Offices - Leases

Based on these factors and requirements, the VIDC could have lease space ready for a new office approximately four months from the date that the Certificate of Space Needs and Funding is submitted.

Items that could delay the lease process:

- Inability to locate suitable office space
- Landlords and/or their attorneys fail to act promptly in the negotiation process
- Landlord backing out in mid-negotiation resulting in a “start over”
- Problems with a build out – construction problems/delays

Existing staff to accomplish lease items: .7 FTE Lease Administrator

Proposal for 3 New Offices - Procurement

-State agencies are required to comply with the Procurement Act.

The state procurement process requires utilizing mandatory sources, state contracts and/or requesting bids.

Lease space must be secured prior to placing procurement orders for goods and services.

Items that will need to be procured:

- Telecommunications services (telephone and fax lines and Internet connections)
- Telecommunication equipment (phones, fax machines)
- IT equipment (computers, file servers, printers).
- Office equipment (postage meter, copiers, shredder)
- Furniture (desks, chairs, file cabinets, conference table/chairs)
- Janitorial services (if not included in lease)

Proposal for 3 New Offices - Procurement

Method of Procurement:

Mandatory Sources/State Contracts:

- VCE
 - furniture
- VITA
 - telephone and fax lines, Internet service,
- Postage Meter and Scale

Optional Use State Contracts:

- Copiers
- Computers and file servers
- Printers

Bids needed:

- Fax machines (no current state contract)
- Janitorial services

Proposal for 3 New Offices - Procurement

Challenges in the Procurement Process - Generally, the time needed to prepare a new office to open under the procurement process is 60-90 days.

-In-stock and quick ship items are not guaranteed in quantities over 5. This is in part due to budget constraints. The lead time to manufacture some items is 45-60 days.

-Build out of lease space will need to be completed prior to delivery and installation of goods and or services, except the telecommunications services which can be done in conjunction with build out.

-Telephone and fax lines take 15-30 days for installation.

-DSL/Internet connections carry a lead time for new lines of 60 business days and require a physical address.

Existing staff to accomplish Procurement items: 1 Procurement Supervisor, 1 Procurement Assistant, 1 IT Director, 1 Senior Systems Analyst, 2 Computer Technicians

Proposal for 3 New Offices - Training

-Attorney training and certification can be done on a rolling basis as attorneys are hired.

-The certification training program is available on DVD for video replays. As attorneys are hired who are not certified to accept court appointed criminal cases, the training department can provide the necessary training to allow for certification to accept misdemeanor cases within one week.

Existing staff to accomplish Training items: 1 Training Director, 1 Training Administrator

Proposal for 3 New Offices

- We believe that funding inserted into the VIDC budget for the proposed offices was calculated based on a full FY of operation.
 - For FY11, the amount was \$9 million.
 - For FY12, the amount was \$8.5 million.
- Based on the proposed opening dates of the offices, it will be necessary to adjust the funding as proposed.
 - The Criminal Fund was reduced by \$9.2 million each year of the new biennium.
- We are happy to work with the staff of the House Appropriations Committee, Senate Finance and DPB to determine what the necessary adjustment should be.

Proposed Opening Dates

We propose the following staggered dates for the office openings:

- Chesterfield – October 10, 2010
- Prince William - November 10, 2010
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