

*In accordance with Virginia Code § 2.2-3708.2, Virginia Code § 15.2-1413 and the City's Continuity of Government Ordinance adopted on September 15, 2020, and Chapter 1289 of the 2020 Acts of Assembly as amended, I hereby call for a **MEETING BY ELECTRONIC COMMUNICATION MEANS** of the Human Rights Commission. This meeting was held by electronic means using the WebEx videoconferencing platform because of the COVID-19 Pandemic emergency.*

February 11, 2021
4pm

The purpose of the meeting is to discuss and transact the business of the Commission.

Members Present: Sylvia Nery-Strickland (Chairwoman), Dr. Virginia Jenkot (Vice Chairwoman), Beatriz Amberman, Zakkiyya Anderson, Joe Burnsworth, David Calliott, Thomasine Cubine, Morgan Ellis, Jamal Gunn, Carla Hesseltine, Hannah Mancoll, Emiliano "Jo" Orenca, Luis Rivera, Teresa Stanley, Mark Stevens, Ron Taylor, Frances Knight Thompson, Allison White, Rabbi Israel Zoberman

Staff Present: Regina Hilliard (Human Resources), Dominique McKinnon (HRC Liaison)

Liaisons Present: Rod Ingram (Deputy City Attorney), Captain Henri Norris, Dr. LaQuiche Parrott, Orelious Walker

I. Call to Order/Roll Call

The meeting was called to order by Chairwoman Nery-Strickland at 4:02 p.m.

Roll Call of the Commissioners was taken. Commissioner Cubine connected to the meeting after Roll Call was taken.

II. Minutes Approval

Commissioner Amberman made a motion to approve the minutes from the January 14th meeting. Vice Chair Jenkot seconded the motion. By a vote of 18-0, the minutes for the January 14th meeting were approved.

III. Commonwealth Attorney and Public Defenders Presentation

Cal Bain with the Public Defender's Office, Commonwealth Attorney Colin Stolle, and Taite Westendorf and Bassel Khalaf with Westendorf & Khalaf P.C. joined the HRC meeting to discuss the proposed pay supplement for public defenders. Mr. Bain reported that for years the City has provided a supplement for the Commonwealth Attorney's Office, which has grown over years. As a result, it has made a difference in the salaries between the Commonwealth Attorney's Office and the Public Defender's Office. The starting salary at the Public Defender's Office for an attorney right out of law school is about \$53,000 and in the Commonwealth Attorney's Office, with their supplement it is about \$73,000. He stated that he has had attorneys leave his office to go to the Commonwealth Attorney's Office because of that pay difference. The difference can cover a mortgage payment and many of these attorneys have law school loans to pay. The pay disparities go up as you climb the chain of command – his deputies make about \$70,000 while Commonwealth Attorney's Office deputies make about \$130,000, his chief deputy makes \$80,000 and Commonwealth Attorney's Office chief deputy makes about \$150,000. When the salaries are not the same it causes turnover. He

reported that it takes about a year or two to train an attorney to be able to function in the courtroom without supervision and that's around the time that they leave because they want to make a decent living. He reported that in the last year, 3 of his attorneys have left his office for the Commonwealth Attorney's Office.

Commonwealth Attorney Colin Stolle spoke on his support of the supplement from the City for the Public Defender's Office. He stated that City Council isn't required to give supplement to Commonwealth Attorney's Office, but decided to make Virginia Beach a safe city by putting funding into the police department and Commonwealth Attorney's Office. The achieved goal was for Virginia Beach to have a competent Commonwealth Attorney's Office. The supplement allows his office to attract entry level positions, experienced prosecutors from other offices, and attorneys from the Public Defender's office. He stated that the state does not do well with keeping salaries at a livable level for state employees across the board. Without the supplement, the attorneys of the Commonwealth Attorney's Office would have the same starting salaries as the attorneys of the Public Defender's Office. Someone coming out of law school may have student loans between \$80,000-\$120,000. Trying to pay these loans, buy a house, or start a family is not possible on a starting salary as a public defender. These attorneys have to decide between continuing in their public service job or moving on so they can make more money. He stated that he believes that public defenders have the hardest job in the criminal justice system because defendants feel like they are getting short changed and don't respect them or cooperate with their public defenders. It requires an attorney who is experienced in easing a defendant's concern and can put together a good defense. That is difficult with constant turnover so it is important that the City of Virginia Beach give public defenders this supplement so the Public Defender's Office can maintain the attorneys that they hire. This will make it easier for defendants to have good competent representation.

Bassel Khalaf spoke on his experience as a public defender and that his reason for no longer being one is due to the salary. It would be ideal if an attorney could have a whole career at the Public Defender's Office, and feel like they can pay off their student loans and provide for their family. He stated that he doesn't understand how the City can say that they value both sides of the scales of justice while only providing for one. There are two sides to a story, but in this argument for the supplement, both sides – the Commonwealth Attorney's Office and Public Defender's Office – say that this supplement for the Public Defender's Office is fair. He stated that the amount of work that comes through the Public Defender's Office is largely minority clients. A public defender has to deal with disgruntled clients who don't trust the system and the pay disparity for public defenders is one of the reasons for this distrust. He added that the city will decide what causes they want to fund, but there is no cause more noble than ensuring a fair justice system with integrity and making sure people charged with a crime have their day in court. Public perception is important when discussing justice and with the current social justice movement, this pay parity is an important matter to band together on.

Taite Westendorf spoke on his experience as a public defender for 11 years and although he is no longer a public defender, he is still very passionate about it because of how important public defenders are to the integrity of the justice system. He provided an example of the pay disparity, stating that an attorney in the Commonwealth Attorney's Office made 80% more than what he was making in the Public Defender's Office. He stated that the Commonwealth Attorney's Office gets 6.4 million dollars from the City while the Public Defender's Office gets no money from the City. Both sides are not treated equally and to have the best criminal justice product, all the resources can't be given to just one side. He stated that he believes the Commonwealth Attorney's Office has shown a tremendous return on the City's 6.4-million-dollar investment as he has visited other Commonwealth Attorney Offices around Hampton Roads and Virginia Beach is seen as the best. The Commonwealth Attorney's Office can attract and retain the highest quality attorneys and he suspects that the same would happen to the Public Defender's Office if they were given the supplement. He stated that one

of the big problems with the pay disparity is that new attorneys receive their training from the Public Defender's Office and once they are competent, they leave and end up prosecuting the people being represented by the Public Defender's Office. He added that one of the arguments for the pay parity is to go to the state for funding, but the pay imbalance is caused by the city funding to the Commonwealth Attorney's Office and not to the Public Defender's Office.

Commissioner Taylor stated that he believes this current discussion on leveling the playing field between the Commonwealth Attorney's Office and Public Defender's Office is important in criminal justice reform. It is important that the Public Defender's Office retain the best attorneys, but they also need enough funding to have the resources to effectively defend their clients. Marginalized groups that can't afford to pay for their own defense are at the mercy of the Public Defender's Office that is underfunded. He stated that the Public Defender's Office needs to be properly funded, starting with the attorneys. Defendants are at the peril of the criminal justice system without a properly funded defense while the Commonwealth Attorney's Office has the funding to call expert witnesses and then the scales of justice are unbalanced. He stated that the City of Virginia Beach needs to step up and pay the Commonwealth Attorney's Office and Public Defender's Office equally.

Commissioner Stanley thanked Commonwealth Attorney Stolle for weighing in on balancing the equal sides of justice so that human rights are being upheld on both sides in order to have a fair justice system. She asked if pay parity will impact the prosecuting office and if another 6.4 million dollars is needed to make the pay between the Commonwealth Attorney's Office and Public Defender's Office equal. Commonwealth Attorney Stolle clarified that his office prosecutes cases that the Public Defender's Office handles, but also cases involving private attorneys and the Public Defender's Office defends cases that the Commonwealth Attorney's Office are not involved in. The Commonwealth Attorney's Office is a law enforcement office, so he has responsibilities outside of being in the courtroom. The pay parity for the work that both offices do, does not equal 6.4 million dollars. Cal Bain reported that he would need to have City HR look at what the exact amount is for pay parity between the two offices. He stated that it has only been five years since legislation was passed to allow the city to give the Public Defender's Office a supplement for salaries. Commonwealth Attorney Stolle reported that between 4-5 jurisdictions in Virginia provide their public defenders with a supplement and Cal Bain clarified that it's about 7 now. Commonwealth Attorney Stolle stated that he is happy to stand with Cal Bain and the Public Defender's Office because they deserve the supplement. A crime is tried in an adversarial system, but their offices are not adversaries. His office has just as much ethical responsibilities to the defendant in a case as he does to the victim. He stated that he along with Cal, Taite and Bassel want to see justice served and here, justice being served is the public defenders need to get this supplement.

Commissioner Hesseltine asked if the pay parity is only for the attorneys in the Public Defender's Office or does it filter down to the paralegals and the administrative staff. She guessed that most of the paralegals are minorities and women, and they should have pay parity as well. Cal Bain stated that his goal is to get pay parity for all his staff. There are many different levels of staff within the Public Defender's Office and even more in the Commonwealth Attorney's Office. Commonwealth Attorney Stolle stated that the Indigent Defense Commission (IDC), that governs the Public Defender's Office, doesn't necessarily use the same titles and same job responsibilities for staff as the Commonwealth Attorney's Office so there would have to be a side-by-side comparison to determine the supplement. He stated that he thinks it's important for that to happen because the attorneys may be the ones going to court, but the support staff does a lot of hard work that allows them to go into court and try cases.

Commissioner Amberman asked how the HRC can support our city in achieving equity in the justice system. Commonwealth Attorney Stolle stated that it's important that City Council hear from the Commission via phone calls or a letter saying that the HRC endorses the idea of pay parity for public

defenders. He said that he knows Councilman Berlucchi and Councilman Tower are at the forefront of this matter and could use the advocacy help.

Commissioner Gunn asked why so few jurisdictions in the state of Virginia have supplements for public defenders. Cal Bain stated that there are some jurisdictions where there is pay parity between Public Defender's Offices and Commonwealth Attorney's Offices so there's no need for a supplement. It's only been five years since they have been able to get a supplement, but it is a growing practice. Commissioner Gunn asked if the supplement is just for staff or is it for additional resources. Cal Bain answered that the supplement is just for salaries. Commissioner Gunn asked Bassel Khalaf about fairness for minority clients and how this supplement would affect them. Mr. Khalaf stated that if the Public Defender's Office has more money to fill more positions that would lighten the case load for the new attorneys, giving them more time to be trained to handle cases efficiently. He said that the resource of experience is directly intertwined with the resource of efficiency and you're not going to have experience or efficiency if you have high turnover. Commissioner Gunn asked Cal Bain if the supplement would be used to hire more attorneys and/or pay the current attorneys more. Mr. Bain stated that with the current legislation the supplement could only be applied to current attorneys. He reported that he has been giving permission to add four attorneys to his staff this year.

Commissioner Calliott asked the presenters if they could share which City Council members were opposed to the pay parity so commissioners could be more tactical in personally contact them, in addition to the letter from the Commission. Taite Westendorf stated that Councilman Berlucchi, Councilman Tower, Councilman Rouse and Councilwoman Wooten were in favor. Chair Nery-Strickland suggested contacting your Council members whether they support or oppose pay parity.

Commissioner Stevens asked if the Public Defender's Office needs more than the four new attorneys they are permitted to hire. Commonwealth Attorney Stolle stated that would be a state issue as the General Assembly provided more funding to the IDC for the additional positions and the legislation that allows for the supplement to go towards salaries, not positions. Commissioner Stevens asked how many attorneys are in the Public Defender's Office currently and how many attorneys are in the Commonwealth Attorney's Office. Cal Bain reported that his office has 25 attorneys, including himself, so with the 4 new positions that will take them to 29 attorneys. Commonwealth Attorney Stolle reported that his office has 44 attorneys.

Commissioner Rivera stated that he wants to make sure the HRC letter of support for pay parity applies to pay increases for the attorneys, paralegals, investigative staff and everyone in the Public Defender's Office.

Commissioner Taylor asked if the Public Defender's Office has the resources to bring in an expert witness or run DNA tests and if they have enough investigators. Cal Bain reported that they have 2 classic investigators, 1 sentencing advocate and they will be getting 1 more investigator due to the capital defenders office being defunded with the end of capital punishment in the Commonwealth. To get expert witnesses, they have to file a motion with the judge who will decide if it is reasonable. Commonwealth Attorney Stolle clarified that expert witnesses are not paid through the Public Defender's Office, but the courts. Commissioner Taylor asked if that applies to the DNA testing and Commonwealth Attorney Stolle confirmed that it does.

Commissioner Cubine expressed her appreciation for the attorney in the Public Defender's Office that specializes in defending people that have mental health problems.

Commissioner Amberman made a motion for the Human Rights Commission to draft a letter of support for pay parity for the Public Defender's Office. Commissioner Calliott seconded the motion.

Commissioner Hesseltine expressed concern that the support staff, who a lot of times are minorities and women, will be left out of the pay parity. Deputy City Attorney Rod Ingram clarified that the motion is for support of pay parity for the Public Defender's Office so that would include the attorneys and support staff. By a vote of 18-0, the motion was approved.

IV. Chairman's/Committee/Liaison Reports

Chair Nery-Strickland reported that the Citizens Committee for Boards and Commissions are now meeting bi-weekly and making progress as they work on their procedures. There may be some suggestion coming for the committee to City Council.

Vice Chair Jenkot reported that she has been speaking with Vanessa Torres of the FBI and she will be presenting an update on human trafficking to the Commission in April. Chair Nery-Strickland asked if there were any objections to the presentation and there were no objections.

Commissioner Amberman reported nearly 200,000 people in the state of Virginia are fully vaccinated, 10.3% of the population has received 1 dose and the positivity rate went down to 10.4%. The data on race and ethnicity for the vaccinations may not have been collected accurately, so the number she shared may not be the total figures:

Asian Pacific Islander population – 7900 people
Black population – 50,167 people
Latino population – 29,012 people
White population – 334,879 people
Native American population – 2,083 people
No report for people of 2 or more races

There is concern with how marginalized populations are being reached to notify them about the vaccine as they may not have access to the internet.

Commissioner Amberman shared some other data on COVID-19 in Virginia Beach:

8,349 people have been fully vaccinated.
301 people have been hospitalized due to COVID-19.
1,017 out of the 2,945 ventilators in the state are in use.
The ICU occupancy is at 80%.

There are changes being made for pharmacies in Virginia to start administering vaccines. CVS will be administering 26,000 doses through the federal pharmacy partnership program. She stated that their website was easier to understand regarding registration and side effects of the vaccine. In January, Virginia was 50 out of 50 states for administration of the vaccine and now Virginia is number 10. Virginia will be receiving 400 million dollars for the vaccination efforts and her committee has been asked to submit recommendations for how that money should be used. The committee she serves on has discussed recommending a mobile vaccination vehicle that could bring vaccinations to remote sites. She asked if anyone has any suggestions to please share with her so she can forward to the committee.

Vice Chair Jenkot reported that Sentara sent out an email about the details of the vaccination distribution in Virginia Beach.

Commissioner Hesseltine reported that at the last Law Enforcement Oversight Committee meeting, they completed the review for the VBPD Use of Force policy and will be sending out a letter with

some minor suggestions. Next, the committee will be reviewing the VBSO Use of Force policy on Tuesday, February 16th.

Commissioner Cubine reported that the Mental Health Taskforce is focusing on housing for people with mental health conditions, they are continuing to advocate strongly for funding for STEP-VA, development of a mental health video and outreach to faith communities. She added that Commissioner Stanley and Commissioner Ellis are working on a mental health project for the Season for Non-Violence.

Commissioner Ellis reported on the history of the Season for Non-Violence stating that the global grassroots campaign is dedicated to raising awareness about the healing and transforming power of non-violence. The 64-day event began in 1997 on the 15th and 30th anniversary of the assassinations of Gandhi and Dr. Martin Luther King, Jr, running from January 30th to April 4th. Throughout the 64-day campaign, events and activities for peace and non-violence take place all around the world. Commissioner Ellis reported that in the latest Zoom meeting with NAMI Coastal Virginia, they discussed what their focus would be this year and decided to make the theme mental health. She stated that with the pandemic, students in particular have been struggling with mental health. Some of their proposed ideas are a bench in the ViBe District, painting rocks or tiles with inspirational messages for those struggling with mental health, or painting rocks with a semi colon as a reminder that a person's story isn't over. She has reached out the National Honor Society and National Art Society and so far, the National Honor Society has offered to help. Commissioner Stanley reported that Commissioner Mancoll will also be working with the Season for Non-Violence Collective. On February 17th there will be an event – All the questions you ever needed to know about mental health – and all the participants in the Season for Non-Violence will be attending the Ending the Silence presentation. They will be working on a flyer to make people aware of mental health, destigmatizing mental health and support available. They will be getting that out to the Commission to share with their network. She thanked Dr. Parrott for being a liaison with the schools on this project and commended her on her Equity Forum.

Dr. Parrott introduced her coordinator for the Diversity, Equity and Inclusion office, Dr. Sabrina Lindsay-Law who was behind the Black History Equity Forum. Dr. Lindsay-Law joined the office in November and her goal in her new role is to continue building out the office, build an equity plan as well as resources to support the school division. She also wants to work on building partnerships with community organizations like the HRC and looks forward to future collaborations. Dr. Parrott reported that they have partnered with Quality Measure for an equity assessment and she is inviting the HRC to participate in a focus group. Their evaluator will reach out to Staff Liaison McKinnon for dates and times that the commissioners can participate in the focus group which will occur virtually. Dr. Parrott provided the Commission with a one-page update on what her office has been working on and she can be contacted if anyone has any questions.

Commissioner Rivera asked if there will be any discussion on the procedure manual that was sent out. Chair Nery-Strickland suggested a By-Law Committee meeting be scheduled to discuss and review the manual. Commissioner Rivera asked if there was any feedback from the city on the Commission's code of conduct and Chair Nery-Strickland reported that the Citizens Committee for Boards and Commissions is discussing that and the meetings are open for the public to attend.

Commissioner Thompson reported that the Minority Business Council is having a virtual Expo on April 22nd from 10am – 2pm. She will be sending out more details on the event. She reported that the Minority Business Council is meeting virtually the 2nd Friday of the month at 3pm and is open to the public. The link to the meeting can be found on the VB.gov website. She encouraged the Commission to follow the Minority Business Council on FaceBook and Twitter where a lot of information and events are being shared. She also reported that she has been attending School Board meetings which

are consumed by reopening schools and suggested that people reach out to their school board members if they have any suggestions.

Commissioner Zoberman spoke on the current event effecting our democracy and asked if the Commission could have a meeting to discuss these current events, maybe have a presenter who could dissect what is occurring. Chair Nery-Strickland suggested having a team building meeting where the Commission could discuss topics such as this.

V. Adjournment

Chair Nery-Strickland adjourned the meeting at 5:59pm.

Next Meeting:
Thursday, March 11, 2021 @ 4:00 p.m.
Virtual Meeting