

VSB INDIGENT DEFENSE TASK FORCE
STATUS REPORT TO THE EXECUTIVE COMMITTEE AND BAR COUNCIL
September 29, 2004

Submitted by Alexander N. Levay, Jr., Task Force Chair

- The full Task Force met July, 1, August 16, and September 27, 2004.
- The Task Force respectfully requests that Bar Council adopt the following recommendations with the understanding that as additional statistical information is secured, statements concerning the likely fiscal impact of the recommendations will be provided to the Virginia State Bar's Executive Committee:

Appointed Counsel

The present system of non-waivable caps per charge for appointed defense counsel should be abolished, with the current \$90 per hour compensation rate set by the Court retained. Appellate counsel should be paid the same hourly rate.

The Rules of the Virginia Supreme Court should be amended to provide for an *ex parte* application to the trial court for appointment of experts or investigators.

The Virginia Indigent Defense Commission (VaIDC) should establish and maintain a directory of experts and investigators available to criminal defense attorneys throughout the state.

Joint recommendation No. 1 (*with public defender issues subcommittee)

The General Assembly should empower the Virginia Indigent Defense Commission to determine the appropriate mechanism (i.e., configuration of the defense delivery system) for achieving excellence in indigent criminal defense services within each jurisdiction in Virginia, including funding specialized appellate defense capacity.

Joint Recommendation No. 2 (*with public defender issues subcommittee)

The General Assembly should fund the additional staff needed by the Virginia Indigent Defense Commission to eliminate excessive public defender workloads, and it should provide sufficient funding for VaIDC to meet its oversight responsibilities for court-appointed counsel.

Joint Recommendation No. 3 (*with public defender issues subcommittee)

The General Assembly should fund and VaIDC should conduct a comprehensive training program for all public defenders, appointed counsel panel attorneys, and support staff.

Public Defender Issues (*see also appointed counsel subcommittee above)

There should be parity between public defenders and prosecutors in terms of compensation and resources such as benefits, technology, experts, investigators, etc.

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VaIDC should adopt national caseload standards and eliminate excessive workloads in public defender offices, and the General Assembly should fund and VaIDC should conduct a comprehensive study of caseload standards.

The General Assembly should fund the installation and annual maintenance/operating expenses of modern and efficient computer systems in all public defender offices, including desktop internet access and online legal research capabilities.

Prosecution System

In addition to parity of resources between the defense and prosecution, the rules of discovery should be broadened to allow more access to information in a criminal case.

The Office of the Executive Secretary of the Supreme Court of Virginia should study the cost of jury sentencing and obtain statistical information as to what percentage of jury trials are taken at the Commonwealth's request.

Continuation of the Task Force's Mandate

The Task Force requests continuation of its charge into 2005.

The Task Force seeks specific authority from Bar Council to obtain outside consulting services which, in combination with data collection assistance from VaIDC and the Supreme Court of Virginia, will help produce fiscal impact statements for its several recommendations. The Task Force expects to receive a cost estimate of outside consulting services the week of Monday, October 4, 2004.