

Rockingham - Harrisonburg Community Criminal Justice Board (CCJB)

Minutes

In-Person Meeting – 20 East Gay Street, Harrisonburg, VA 22802
Monday, October 3, 2022 - 4:00 p.m.

Board Members –

Rick Chandler – Rockingham County Board Member / CCJB Chairperson
Laura Dent - City of Harrisonburg Council Member / CCJB Vice-Chairperson - Absent
Marsha Garst – Commonwealth’s Attorney
Ande Banks – City Manager (Acting)*
Kelley Warner– Chief, Harrisonburg Police Department - Absent
Chaz Haywood – Clerk of Circuit Court - Absent
Bryan Hutcheson – Sheriff, Rockingham County & City of Harrisonburg
Rebekah Brubaker – Rockingham Harrisonburg Community Services Board
Richard Jackson, Rockingham-Harrisonburg-Page Reentry Council
Stephen King – County Administrator
Celest Williams – Director, Department of Social Services
Oskar Scheikl – Rockingham County School Superintendent
Judge Bruce Albertson
Michael Richards – Harrisonburg City School Superintendent – *Absent*
Agent Cross for *Joshua Lutz* - Chief, Probation & Parole District 39
Judge John Hart – *Absent*
Judge Anthony Bailey– *Absent*
Gene Hart – Defense Attorney
Monica Martin – Chief Magistrate – *Absent*
Ann Marie Ritchie, Director, Court Services

Non-Board Attendees

S. Frank Sottaceti - Harrisonburg / Rockingham Criminal Justice Planner

* Ande Banks is City Manager as of October, 25, 2022

- I. Welcome and Introduction by Chairperson Chandler
- II. Chairperson Chandler moved for Approval of the July 11, 2022 CCJB Minutes. Mr... King moved for Approval, CA Garst Seconded. Chairperson Chandler Abstained as he had not been Present for that Meeting. Minutes were Approved by verbal poll. None Opposed.
- III. Informational/Operational Updates
 - A. Rockingham Harrisonburg Regional & Middle River Regional Jail Statistics

Report was posted and disseminated prior to the Meeting. No questions or comments were raised.

Mr. King stated that the Commonwealth is doing a much better job of taking State Responsible Inmates from the Middle River Regional Jail and hopes that this trend continues.

The Guest Speaker, Mr... Timothy Coyne, Deputy Assistant Director of [The Virginia Indigent Defense Commission](#) (VIDC), joined the Meeting virtually at 4:05 p.m. and Item III “Informational/Operational Updates” was paused.

Sottaceti introduced Mr. Coyne. Mr. Coyne asked who was on the Rockingham – Harrisonburg CCJB and Sottaceti verbally ran through the roster of Members.

In Virginia in the mid-1970s, the first Public Defenders (PD) Office was created in Staunton and it's about to celebrate its 50th anniversary next month. Virginia Beach was the second PD Office established in the 1970s. Over the course of the 1980s and 1990s, other offices came into existence, all created by Acts of the General Assembly. And along with the creation comes staffing and funding for the PD Office.

Mr. Coyne was the PD for the Winchester Office which was established in 1989 and is comprised all jurisdictions in the 26th Circuit except the City of Harrisonburg and Rockingham County. It covers, Clarke, Frederick, Page, Shenandoah, Winchester, and Warren Counties. The Office is budgeted to be staffed with 13 Attorneys, including the Public Defender. But in the current job environment it has been difficult to reach full staffing. The Office is staffed with two (2) Investigators, a Mitigation Specialist, four (4) Legal Assistants, and a Paralegal. The Office at full staffing is 21 people. The main office is in Winchester and there is a satellite office in Front Royal. The satellite office serves Shenandoah, Page, and Warren Counties. He stated that the main benefit of a public defenders office is that they are specialized in that that is all they do. Every new attorney that comes on board in a PD Office must do a two-week boot camp for defense work. Any private attorney that wants to take court-appointed cases must take training for a day and one-half at the VIDC to get certified to handle misdemeanor cases. And they must serve as Co-counsel for four (4) felony cases and four (4) juvenile cases to be certified to represent that level of cases. The VIDC is funded by the State and there is a provision where localities can supplement that funding. Mr. Coyne said there is a misperception. That a public defenders office comes in and supplants Private attorneys. But that is not the case. In fact, they coexist quite well. The PD office also serves as a resource for private attorneys with questions. For example, providing sample Motions. Because the office must be created by an act of the General Assembly it requires buy in from all of the entities in the criminal justice system within a jurisdiction. Mr. Coyne did some research, and it looks like in 2021 there were over 2,000 felony cases brought and over 600 misdemeanor cases in our jurisdiction. The number of cases in the Rockingham Harrisonburg area exceed any one jurisdiction within the Winchester Public Defenders Office. A public defenders

office is also able to staff specialized dockets like drug court or behavioral health dockets.

Marsha Garst asked how the initial PD office in Winchester was received by private attorneys whose main source of income was made by being court-appointed. Mr. Coyne said that it was well received and a public defenders office is not designed to supplant private attorneys or court-appointed attorneys; it is designed to work in harmony.

There have been issues where PD offices were formed without community or professional buy in and they have had conflict. Garst asked what is the genesis for localities requesting a PD office? Is it the quality of representation of private court-appointed attorneys or is it that there are lower numbers of people that can be appointed attorneys. Mr. Coyne said that the latest numbers from the VIDC are that the available pool of private attorneys for court-appointed assignment is down 11% from 2021 to 2022.

Gene Hart stated that while the numbers are diminishing, it is compounded because the ones that come off of the list that no longer take court-appointed cases are usually the more experienced senior attorneys. Mr. Hart asked if the VIDC tracks the reasons that people come off of the list. Mr. Coyne stated that they do not. The only way people come off of the list at the VIDC is that they don't recertify. Mr... Hart asked how long it takes after the General Assembly approves an office creation does it get created and operational in a jurisdiction? Mr. Coyne said that the last two offices created were Chesterfield County and Prince William County. Chesterfield County office was authorized in 2020 and was operational in July of 2021.

Judge Albertson the size of a public defenders office is determined. Mr. Coyne said that many factors come in, such as caseload number of court-appointed attorneys available number of cases assigned to private attorneys versus court-appointed attorneys and also demographics of a community.

Gene Hart asked if PD offices would or should pursue more serious cases because they have mitigation specialists and investigators on staff where a court-appointed attorney may not be able to hire an investigator. Mr. Coyne said that yes, the PD Office pursues being assigned to more serious cases.

Ande Banks asked about the structure of a PD's office as far as Local government goes. Mr. Coyne stated that all PD office employees are VA State Employees. The Public Defender themselves are hired by the VIDC and then the Public Defender themselves has the authority to independently staff that office. The Public Defenders Office will not be under the city or County government structure.

Mr. King asked if an existing public defenders office can be expanded to cover other areas. Mr. Coyne said that yes, public defenders offices can be expanded. Winchester covers an expanded area and Staunton covers an expanded area. There is however a

difficulty with travel and logistics. For the Winchester office to expand to cover Harrisonburg and Rockingham County, it would require a satellite office be established within this jurisdiction.

Judge Albertson made the point that each jurisdiction, meaning the court, decides whether to appoint a Public Defender or court-appointed counsel. Mr. Coyne agreed. It is up to the local court to decide how to assign council for Defense. While there are cap waivers that can be filed, private attorneys are still generally not making what they would make if they were retained counsel.

Mr. King raised the issue of the compensation amount for court-appointed attorneys compensation. Mr. Coyne deferred to Gene Hart, who said that it's been about 15 years since that amount has been adjusted. Mr. Coyne said that Virginia ranks 48th or 49th in the Nation in compensation for court-appointed attorneys.

Sottaceti asked if there was any cost at all to the localities, meaning Harrisonburg and Rockingham, if this were to be established. Mr. Coyne stated there is no cost to the localities. Unless they were to voluntarily contribute an amount to raise the salaries of the public defenders office staff. This is called a Supplement.

Chairperson Chandler thanked Mr. Coyne for the information that he provided and that we would recontact him with any future information needs.

The Guest Speaker, Mr... Timothy Coyne, Deputy Assistant Director of [The Virginia Indigent Defense Commission](#) (VIDC), left the Meeting at 4:35 p.m. and Item III “Informational/Operational Updates” was resumed.

- B. Harrisonburg Rockingham Community Services Board (CSB)
Report was posted and disseminated prior to the Meeting. No questions or comments were raised.
- C. District 39 Probation and Parole
Report was posted and disseminated prior to the Meeting. No questions or comments were raised.
- D. Court Services
Report was posted and disseminated prior to the Meeting. No questions or comments were raised.
- E. Reentry Coordinator
Report was posted and disseminated prior to the Meeting. No questions or comments were raised.
- F. Criminal Justice Planner Report

Report was posted and disseminated prior to the Meeting.

Sottaceti highlighted that misinformation continues to be pushed by community advocates and activists that Harrisonburg/Rockingham are driving the incarceration rates at the Middle River Regional Jail (MRRJ). Sottaceti provided the latest incarceration figures which do not align with the information in various Editorials and mass media news stories that have been published.

IV. Old Business

Sheriff Hutcheson asked what the next steps are for the CCJB Committee that is exploring a Public Defenders Office. Sottaceti listed the Committee Members: Ande Banks, Stephen King, Gene Hart, Richard Jackson (Committee Chair), Christopher Bean.

Mr. Jackson stated that the next step was going to be determined from this meeting with Mr. Coyne and that the Committee would be meeting at a future date. Committee updates would take place at the Monday, January 9, 2023 CCJB Meeting.

Marsha Garst brought up that since the Court-appointed compensation has not been changed in 15 years that possibly trying to raise the compensation is another avenue to alleviate future private attorney shortages for Court Appointment.

VI. New Business

Rebekah Brubaker was recognized by the CCJB as representing the CSB until a permanent CSB Director is appointed.

VI. Public Comment

None

4:49 pm - Meeting Adjourned