

Commonwealth's attorneys band for 'best practices' committee

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Commonwealth's attorneys across Virginia have created a "best practices" committee aimed at improving the justice system, better protecting the innocent while holding the guilty accountable and polishing the image of prosecutors.

Officially launched last month, the Committee on Justice and Professionalism of the 120-member Virginia Association of Commonwealth's Attorneys is one of at least 15 similar efforts across the nation and arrives at a time when some prosecutors in Virginia and elsewhere have come under fire for real or perceived misconduct.

"It's to make sure that we're doing things the right way," said Theo Stamos, Arlington County commonwealth's attorney. "I think the narrative has been, in a lot of respects, hijacked by the folks who want to paint prosecutors as caring for nothing other than conviction rates and whether we get the wrong guy is of no moment — and that couldn't be farther from the truth," she said.

She said the committee will be looking at emerging issues such as the use of police body cameras. In addition to sharing information and better ways of doing things, "it's basically to get the word out that Virginia prosecutors and prosecutors everywhere want to do the right thing," Stamos said.

Stamos, the co-chair along with Denise Lunsford, the Albemarle County commonwealth's attorney, cites as an example the recent efforts of another committee member, Richmond Commonwealth's Attorney Michael Herring.

Herring joined a pardon request presented to Gov. Terry McAuliffe last week on behalf of Michael McAlister, who the Richmond prosecutor believes was mistakenly identified by the victim in a 1986 sexual



Michael Herring

Michael Herring joined pardon request.

assault and is innocent of abduction and attempted rape. Other Virginia prosecutors also have supported exoneration bids of those believed to have been wrongfully convicted.

Herring described the committee as “one of the most important initiatives to come out of our association.”

He said the panel will give commonwealth’s attorneys a chance to candidly and critically discuss the way they do their jobs.

“Because it is not an echo chamber, it forces us to consider the possibility of systemic flaws, and we learn how different jurisdictions have achieved efficiencies and proficiencies,” Herring said.

Stamos said Herring shared his thoughts on the McAlister case with the committee last month.

“Mike wants to do the right thing, and we all want to help each other do the right thing, and [the committee] does provide an avenue to do that,” she said.

Criticism, deserved or not, comes with the territory for elected prosecutors. Many, Lunsford and Herring among them, have been criticized by defense lawyers. Others, like Prince William County’s Paul Ebert, considered the dean of Virginia’s commonwealth’s attorneys, have been rebuked by federal judges. Ebert has denied any wrongdoing.

Not all complaints come from predictable corners, as evidenced by a recent piece in The Times of Shreveport, Louisiana, by A.M. “Marty” Stroud, who prosecuted a man sentenced to death 30 years ago and exonerated last month. Stroud conceded: “In 1984, I was 33 years old. I was arrogant, judgmental, narcissistic and very full of myself. I was not as interested in justice as I was in winning.”

But Stamos said the creation of the committee demonstrates that justice is the priority of her fellow elected prosecutors in Virginia.

“We’re really excited about it. We’re not doing it to have people pat our backs. We’re doing it because we think it could be meaningful to our brothers and sisters,” she said.

The nationwide Best Practices for Justice initiative is led by Kristine Hamann, visiting fellow at the U.S. Department of Justice’s Bureau of Justice Assistance and a former assistant district attorney in the Manhattan (N.Y.) District Attorney’s Office.

Lunsford said Hamann attended an annual training program conducted by the Virginia Commonwealth’s Attorneys Services Council in December 2013 and talked about New York’s best practices program, which started in 2009.

“We thought it sounded like a good idea and something we should be involved in and started working on it

then,” Lunsford said. In August, the group won a \$38,500 grant from the Bureau of Justice Assistance to cover travel, office and other expenses.

Stamos said the roughly two dozen members of the committee are from jurisdictions large and small, as well as rural, suburban and urban.

She and Lunsford gave a 15-minute presentation on the committee at a meeting last month of the commonwealth’s attorneys association.

And, late last month, three Virginia committee members met in Washington with counterparts from more than a dozen other states to learn what is being done elsewhere.

The committee hopes to form an association with a law school where students can do research on issues and provide other assistance — not on specific cases but on general law enforcement and prosecution questions, Lunsford said.

So far there have been three committee meetings. Lunsford said one topic has been police body cameras, a development that raises many issues for the entire justice system — including what happens to the videos, how they are provided to defense attorneys and provisions for access and maintenance.

The next committee meeting is set for May 28 at the University of Richmond.

Lunsford said the group will not be mandating any best practices or telling commonwealth’s attorneys how to perform their jobs, describing them as elected officials responsible to their communities.

“But we do want to provide a format where we can explore what the issues are and discuss the pros and cons,” she said, “and how we can proceed in a just manner.”