

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

December 15, 2015

The monthly meeting of the Committee for Public Counsel Services was held in the Committee's conference room at 40B Bromfield Street, 1st Floor, Boston, MA on Tuesday, December 15, 2015, beginning at 5:40 p.m. R.J. Cinquegrana, Chairman, presiding.

MEMBERS PRESENT: Messrs. Gosselin, Healy, Stern, Watkins, and White

TELECONFERENCING: Mr. Hernando and Ms. Tewksbury

1. Approval of November 18, 2015 Minutes

The minutes of the November 18, 2015 meeting were approved as submitted.

Mr. Benedetti informed the Committee that the staff had been notified about the Committee approval for staff raises and specifically about the amount of their raises. He informed the Committee that the response by staff had been overwhelmingly positive. He thanked the entire Committee for their support, Mr. Healy for his leadership and support of the Massachusetts Bar Association and its task force, Mr. Cinquegrana, and Mr. Kennedy for their leadership and work on the Governor's commission, both of which were instrumental in securing the funding.

2. Amicus Request(s)

a. Commonwealth v. Francis

Larry Tipton, Managing Director, sought Committee approval to file an amicus brief in the case of Commonwealth v. Francis, Supreme Judicial Court (SJC) No. SJC-11988. The SJC has solicited amicus submissions as follows:

“Whether a defendant is entitled to a new trial on drug distribution and trafficking charges where certificates of drug analysis signed by Annie Dookhan were admitted in evidence at his jury trial, but where the defendant also admitted to police that he sold up to one-half a kilogram of cocaine every week.”

Mr. Tipton explained that the case presents the issue of what standards courts should apply when considering whether to grant relief to defendants who were convicted of drug offenses at trial where certificates of drug analysis signed by Annie Dookhan were admitted into evidence.

He went on to explain that this is an important issue of first impression that will affect the interests of current and former CPCS clients.

MOTION: Mr. Healy. That the Committee approve the filing of an amicus brief in the case of Commonwealth v. Francis.

SECOND: Mr. White.

VOTE: Unanimous.

b. Sauceda v. Lynch

Wendy Wayne, Director of the Immigration Impact Unit, sought Committee approval to sign on to an amicus brief in support of petition for rehearing in Sauceda v. Lynch, 804 F.3d 101 (1st Cir. 2015).

Ms. Wayne explained that CPCS was asked by the Immigrant Defense Project in New York and the Stanford Law School Immigrants' Rights Clinic to join an amicus brief in support of the rehearing request. In this case, the question presented was whether a conviction for assault under Maine law, similar to the Massachusetts assault statute, barred Mr. Saucedo from a discretionary defense to deportation that is called cancellation of removal. She explained that a noncitizen who is not a lawful permanent resident is ineligible for cancellation of removal if he has a conviction for a crime of domestic violence. The Maine violation was found to be divisible, containing two separate offenses, one of which qualified as a crime of domestic violence and one of which did not. Mr. Saucedo was not able to produce the plea colloquy or other evidence establishing that he was convicted of the non-disqualifying offence.

She stated that this petition for rehearing presents an important issue for CPCS noncitizen clients who may be eligible for relief from deportation, but are prevented from establishing such eligibility by the Court's decision. She is therefore recommending that the request to sign on the amicus brief be approved.

MOTION: Mr. Watkins. That the Committee approve to sign on to an amicus brief in support of petition for rehearing in the matter of Sauceda v. Lynch, 804 F.3d 101 (1st Cir. 2015).

SECOND: Mr. White.

VOTE: Unanimous.

3. Contract

Mr. Benedetti, Chief Counsel, sought Committee approval for a contract with Dell / Secureworks in an amount up to \$55,000. The agency is seeking to have key web-based applications, accessible outside the agency firewalls, assessed for security. Staff is seeking an expert,

impartial third-party to assess the security of the systems and provide recommendations to remediate any exposures.

MOTION: Mr. Healy. That the Committee approve the contract with Dell / Secureworks in an amount up to \$55,000 to strengthen technology security of IT systems and provide recommendations to remediate any exposures.

SECOND: Mr. Watkins.

VOTE: Unanimous.

4. Strategic Planning Update

Mr. Benedetti updated the members on the progress of the strategic planning initiative. The Strategic Plan is close to being finalized. The draft plan presented to the Committee includes a new CPCS Vision, Mission, and Values and also includes Goals, Strategies, and seven Initiatives designed to achieve the Goals and Strategies over the next three to five years. The plan was developed with input from senior managers and attorneys-in-charge. The next step is to seek feedback from a broader group of staff, as well as external stakeholders, including private attorneys and other agencies that CPCS deals with. He indicated that much of what has been accomplished so far is a reflection of what the Committee had hoped to see from this process. Staff is currently working on creating a master plan, which contains a list of tasks that will be accomplished within the next three to five years.

Ms. Krupp, Training Coordinator, explained that the Initiatives will soon be prioritized. Work on some initiatives will begin in Year one, while others will begin in Year two or Year three. A team will be responsible for planning and completing each Initiative. The teams will be responsible for creating measurements of success for each Initiative.

Discussion ensued.

5. Monthly Financial Overview Report

Kevin Lucchetti, Chief Financial Officer, presented the FY 2016 monthly financial overview report to the Committee for review. There were no changes from the previous month.

Mr. Benedetti mentioned that the Administration and the Legislature are aware of the Agency's need for supplemental funding and the Administration is carrying the estimated shortfall on their FY 2016 balance sheet.

6. Commitments Over \$10,000 Report

Mr. Lucchetti presented the commitments over \$10,000 report. There was one new commitment for Lindenmeyer Munroe for copy machine paper. This expense was previously approved with the vendor WB Mason, but the agency has recently shifted to this new vendor.

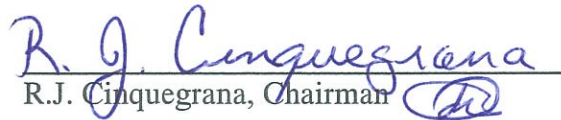
7. Chief Counsel Report

Mr. Benedetti reported on the following items:

- The Supreme Judicial Court is in the process of appointing two new members to the Committee to replace Ms. Steiker and Mr. McGuire.
- The Governor's budget is due to be filed on January 20, 2016.
- As mentioned at last month's meeting, CPCS is weighing in on the Governor's Opioid bill and meetings have been scheduled with the Governor's legal counsel, the Secretary of the Executive Office of Health and Human Services, and House and Senate Leadership.

There being no further business to come before the meeting, the Committee adjourned at approximately 6:11 p.m.

Respectfully submitted,


R.J. Cinquegrana, Chairman