

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

October 15, 2014

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, October 15, 2014, beginning at 5:30 p.m. Joseph L. Kociubes, Secretary, presiding.

MEMBERS PRESENT: Messrs. Gosselin, Hernando (via teleconference), and Kennedy, Ms. Steiker, Ms. Tewksbury (via teleconference), and Mr. Watkins

1. **Approval of September 16, 2014 Minutes**

The minutes of the September 16, 2014 meeting were approved as submitted.

2. **Approval of September 16, 2014 Executive Session Minutes**

The minutes of the September 16, 2014 Executive Session were approved as submitted.

3. **Amicus Request(s)**

Michael Dsida, Deputy Chief Counsel for the Children and Family Law Division (CAFL), sought Committee approval to submit an amicus brief in the matter of In re Guardianship of V.V., SJC-11739. He informed the members that the Supreme Judicial Court issued the following solicitation for amicus briefs in the case:

Whether the biological parent of a minor child has a right to counsel in a guardianship action, where someone other than the parent (here the child's great-grandparent) seeks to have herself appointed by the court as the child's guardian. See G.L. c.190B, §§ 5-201, et seq.

Mr. Dsida said he is seeking approval to file an amicus brief in this matter in support of the right to counsel in contested guardianship cases, both for the parent and child. Under current law, a child has limited rights to counsel in guardianship cases. The right to counsel is only triggered when the child him- or herself, someone on his or her behalf, or the Court requests the assignment of counsel. Under current law, there is no right to counsel for parents.

Mr. Dsida indicated that he has contacted the Probate and Family Court to inquire about the number of cases this may affect. He said he was informed that they do not keep track of whether cases have been contested or not, but that the court has done an assessment of the complexity of cases based on the number of docket entries and it estimates that there are approximately 400-500 contested cases per year.

If approved, Andrew Cohen, Director of the CAFL Appellate Panel, would draft the amicus brief, which is due on or before November 17, 2014.

MOTION: Mr. Hernando. That the Committee approve the amicus request in the

matter of In re Guardianship of V.V., SJC-11739.

SECOND: Ms. Steiker.

VOTE: Unanimous.

4. Proposed 2015 Meeting Dates

Mr. Kociubes mentioned that a request has been made to move the November and December, 2014 meetings to Wednesday, November 19, 2014 and Wednesday, December 16, 2014. A notice will be sent to all members regarding this change.

Members were informed that the proposed meeting dates for calendar year 2015 have been scheduled for the third Wednesday of each month.

Ms. Steiker indicated that Wednesdays are a hardship for her.

It was determined that the calendar year meetings would alternate between Tuesdays and Wednesdays from January through May, and that they would be held on Wednesday in June and July. Beyond July members would be consulted on their availability.

5. Commitments of \$10,000 and Over Report

Mr. Benedetti presented the commitments of \$10,000 and over report to the members for review.

6. Monthly Financial Overview Report

Mr. Benedetti presented the monthly financial overview report to the members for review. The only change from the previous month is that the deficit in line items 0321-1500 and 0321-1504 has been reduced. Efforts continue on a request for an end of year supplemental budget. The House has completed their version with no funding for CPCS while the Senate version which also passed included \$650,000 in PAC money in line item 0321-1518 (Retained Revenue Account). This account no longer exists, but the Senate Supplemental Budget included language that would allow the funds to be used in line items 0321-1500 and/or 0321-1504. Efforts are now focused on maintaining the Senate funding and language in the final version that is sent to the Governor.

Mr. Kennedy requested an overview of the Spending Plan that the agency recently submitted to the Office of Administration and Finance.

7. Salary Commission Update

Mr. Benedetti updated the members on the Commission to Study the Compensation of Assistant District Attorneys and Public Defenders. The first meeting was held on September 26, 2014. It was an introductory meeting, to discuss the overall problem, review the scope of the executive order, and examine the current salary structure within CPCS and the District Attorneys' offices. The Commission must file a report by mid-December. The next meeting of the Commission is scheduled for October 24, 2014.

8. Youth Advocacy Department Update

Due to the limited number of members in attendance, this item was postponed for another date.

9. Chief Counsel Report

Mr. Benedetti updated the members on the attrition problem and the steps that have been taken to address it. The Personnel Subcommittee will meet to review steps taken by management to tackle the attrition problem, and to discuss any ideas that members may have.

Mr. Benedetti said he will be reaching out to the Budget Subcommittee within the next few days to schedule meeting(s) to discuss the FY 2016 budget request with the goal of bringing it to the full Committee for a vote at the November meeting.

Mr. Benedetti reported that the first meeting of the recently reconstituted Sentencing Commission was held the week of October 6th. Attorney John Redden, Attorney-in-Charge of the Brockton Superior Court office, is the CPCS designee to the Commission and Judge Jack Lu is the Chair of the fifteen-member Commission. The Commission is tasked broadly with collecting and examining data and using it to help inform sensible policy recommendations around sentencing issues.

An update was provided on the Children and Family Law (CAFL) counsel crisis. An amendment to the 1,650 annual billing cap for private attorneys who accept CAFL cases was not obtained in the final months of the fiscal year. Mr. Benedetti reported that through the first quarter of FY 2015, filings were up 4%, which is in addition to the overall increase of last year, which was 38%. The Trial Court leadership is working with CPCS to help obtain a legislative change, as the court continues to have difficulty in obtaining counsel in some cases in certain counties. Additional attorneys have been added to the private panel and the hope is to be able to conduct two additional private bar trainings in the spring.

In light of the amicus request discussed earlier, Mr. Kociubes questioned whether there would be enough attorneys to handle cases if the SJC was to rule for the right to counsel in guardianship cases. Mr. Benedetti indicated that the cases would be divided between staff and the private bar. He is hoping that the caseload stabilizes and that the addition of the new private attorneys will solve the problem. Discussion ensued on the issue of CAFL attorney shortage.

On a final note, Mr. Benedetti mentioned that staff attorney Paul McManus was nominated by the Governor for a District Court judgeship. This nomination brings the total number of CPCS employees who have been nominated for judgeships by Governor Patrick to seven.

There being no further business, the Committee adjourned at 6:19 p.m.

Respectfully submitted,

Joseph L. Kociubes
Secretary