

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

April 14, 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, April 14, 2015, beginning at 5:39 p.m., R. J. Cinquegrana, Chairman, presiding.

MEMBERS PRESENT: Messrs. Gosselin, Kennedy, and Kociubes
Messrs. McGuire and Watkins

MEMBERS TELECONFERENCING: Messrs. Hernando and Rosenfeld
Ms. Tewksbury and Mr. White

1. **Approval of March 18, 2015 Minutes**

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

2. **FY 2015 Contracts**

Daniel Saroff, Chief Information Officer, sought Committee approval to enter into a contract with Winslow Technology Group to provide remote monitoring, and technical and device support and replacement. The contract provides the agency with 24x7 monitoring and support to ensure the health of the agency storage in the amount up to \$51,747.94.

MOTION: Mr. Kociubes. That the Committee approve the contract with Winslow Technology Group for monitoring and technical and device support and replacement in the amount up to \$51,747.94.

SECOND: Mr. Watkins.

VOTE: Unanimous.

Mr. Saroff sought Committee approval to enter into a contract with Dell to acquire 47 Dell desktops and 17 Dell laptops to replace devices that will be past warranty at the end of FY 2015. The amount of the contract is up to \$61,866.00.

MOTION: Mr. Kociubes. That the Committee approve the contract with Dell to acquire 47 Dell desktops and 17 Dell laptops up to the amount of \$61,866.00.

SECOND: Mr. Watkins.

VOTE: Unanimous.

Mr. Saroff sought Committee approval to enter into a contract with Dell/Microsoft for software licensing to true-up the inventory of Microsoft licensing for the agency. The amount of the contract is up to \$315,000.00.

MOTION: Mr. Kociubes. That the Committee approve the contract with Dell/Microsoft for software licensing in an amount up to \$315,000.00.

SECOND: Mr. Watkins.

VOTE: Unanimous.

3. Commitments \$10,000 and Over Report

Anthony J. Benedetti, Chief Counsel, submitted the commitments of \$10,000 and over report to the Committee for review. He indicated that there was one new addition to report from the previous month: iCIMS, Inc., a Human Resource Recruitment Software.

4. Monthly Financial Overview Report / FY 2016 Budget Update

Mr. Benedetti presented the monthly financial overview report to the Committee for review which remained unchanged from the previous month with respect to the total forecast. The legislature approved and the Governor signed into law a supplemental budget which included \$34.7M for CPCS for the 0321-1510 private attorney payment line item. This leaves the agency with a projected shortfall of \$9.2M in the 0321-1510 line-item if current growth rates continue. Line-item 0321-1520 remains unchanged.

Mr. Benedetti added that in addition to the funding, the supplemental budget included language that allows a waiver of the 1,650 annual billing cap in Care and Protection cases.

Michael Dsida, Deputy Chief Counsel for the Children and Family Law Department (CAFL), explained how the waiver process will be implemented. The waiver allows attorneys to bill an additional 150 hours on CAFL cases only once they reach the 1,650 billing cap. The waiver also allows lawyers to accept new cases after reaching the 1,350 hours limitation of accepting new assignments. The effective date of the waiver was April 1, 2015.

Mr. Benedetti went on to inform the members that the House Ways and Means Committee will be releasing its budget on Wednesday, April 15, 2015. He briefed the members on meetings that he had with the Speaker of the House and with the Senate Ways and Means Chair. He explained that he provided both with copies of his Written Testimony from the Joint Committee on Ways and Means FY 2016 Budget Hearing and that he updated them with regards to what is needed with respect to CPCS public staff salaries and for the private bar, which has not received an increase in the hourly rates in several years.

CPCS has also proposed to the House and Senate a list of low-level misdemeanors to be decriminalized as an option to reduce costs. The proposal would result in an estimated 7,600 fewer assignments in a fiscal year. In 2008, the legislature decriminalized 1st offense operating a motor vehicle without insurance, 1st offense operating a motor vehicle after suspension, and 1st offense disorderly persons and disturbing the peace. These three offenses, along with the decriminalizing one ounce of marijuana, resulted in savings of approximately \$3M.

Finally, he mentioned that both he and Mr. Cinquegrana served on a civil infraction commission several years ago, that the commission had accomplished a lot of work, but that a final report was never issued. The commission was created by statute and the request to the House and Senate was for the commission to be reconstituted so that it could continue to review the issue of decriminalizing certain lower-level misdemeanors.

5. Innocence Project Overview

Lisa Kavanaugh, Director of the Innocence Program, presented an overview of the CPCS Innocence Program, and the ways the program has sought to advance the core mission of the agency and improve the quality of innocence litigation in Massachusetts.

Ms. Kavanaugh stated the Program was created in February 2010, as a result of a federal Wrongful Conviction Review Program grant awarded from the Bureau of Justice Assistance. Since its inception, the Innocence Program has received over 625 applications for assistance and accepted over 60 cases for assignment of counsel to pursue further factual investigation, expert consultation, or DNA testing to support an asserted innocence claim. The program has also grown to include two staff members who have proved invaluable in helping support innocence work statewide, including staff attorney Ira Gant, who has quickly become one of the state's leading experts in post-conviction DNA testing.

She went on to highlight the Programs achievements since its creation. They are:

- Favorable case outcomes due in part to the involvement of the Innocence Program and the provision of funding from the grant-funded Expert Funding System.
- Leadership in litigation efforts under the state's newly enacted innocence law, "Chapter 278A," including direct representation, advice to and support of appointed counsel efforts, and amicus leadership in cases involving issues of first impression under this important law.
- Novel coalition building and successful grant work at a systemic level that has captured over \$1,000,000 in federal funding for CPCS and a Working Group of criminal justice stakeholders to address the challenges of evidence storage and retention in the context of facilitating greater access to post-conviction DNA analysis.
- Creative partnering in individual case work that has enabled successful collaborations between private and public counsel attorneys/staff investigators; and between the CPCS

Innocence Program and the New England Innocence Project, local law school innocence clinics, and pro bono coordinators in several large civil litigation law firms.

She indicated that the Innocence Program cases that she has worked on and the partnerships formed have revealed the many strengths of CPCS and has given her an opportunity to collaborate with different parts of the agency on common problems.

Finally, Ms. Kavanaugh stated there are sixty Innocence Programs nationwide, that she is on the board of the Innocence Network organization, and that Massachusetts is one of the first public defender based programs; however there is a movement in that direction nationally.

There being no further business to come before the meeting, the Committee adjourned at 6:22 p.m.

Respectfully submitted,

Joseph L. Kociubes, Secretary