

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

April 20, 2016

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 Wednesday, April 20, 2016, beginning at 5:41 p.m. R.J. Cinquegrana, Chairman, presiding.

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

TELECONFERENCING: Mr. Rosenfeld

Mr. Cinquegrana appointed Ms. Ball as the Secretary pro tem for tonight's meeting.

1. Approval of March 15, 2016 Minutes

The minutes of the March 15, 2016 meeting were approved as submitted.

2. Confidentiality Policy

Mark Larsen, Director of the Mental Health Litigation Division, sought Committee approval to adopt a CPCS confidentiality policy. He explained that CPCS has an obligation to ensure that confidential information relating to the representation of a client is not revealed unless the client gives informed consent, the disclosure is impliedly authorized, or the Massachusetts Rules of Professional Conduct (Rules) permit disclosure. The number of staff at CPCS has expanded and it is the duty of the agency to ensure that lawyers and non-lawyer staff understand the duty of confidentiality and that CPCS complies with the Rules. The majority of the policy is a restatement of the Rules, with an addition of Guidelines for the non-lawyers to review / check regarding the rules. All practice areas were involved in developing the Policy in consultation with a former staff counsel of the Office of Bar Counsel.

Mr. Larsen noted that a revised IT Policy, referenced in the confidentiality policy will be presented to the Committee for approval within the next few months.

MOTION: Mr. White. That the Committee approve the confidentiality policy as presented.

SECOND: Ms. Ball.

VOTE: Unanimous.

3. Lease Approval

Anthony J. Benedetti, Chief Counsel, sought Committee approval for a new lease with NIS Building, LLC, for the Northampton office, effective February 1, 2017. The recommended location is for a five year lease at 109 Main Street in Northampton for 4,600 sq. ft. at \$25.81 / sq. ft. totaling \$623,806 for the five years. This proposal will allow both the Superior and District court offices to be in one location.

MOTION: Mr. Watkins. That the Committee approve the lease with NIS Building, LLC, for a five year lease at 109 Main Street, Northampton, MA for 4,600 sq. ft. at \$25.81 / sq. ft. totaling \$623,806 for the five years.

SECOND: Mr. Stern.

VOTE: Unanimous.

4. Monthly Financial Overview Report

Kevin Lucchetti, Chief Financial Officer, presented the FY 2016 monthly financial overview report to the Committee for review. The update included \$26.1M in funding obtained as a result of the supplemental budget passed by the Legislature.

Line item 0321-1520, Indigent Court Costs, has been adjusted upward by approximately \$200K to reflect anticipated year-to-date spending.

The remaining deficiency in the 0321-1510, Private Attorney Payment line item, is estimated to be \$14.5M.

Discussion ensued.

5. Commitments \$10,000 and Over Report

Mr. Lucchetti presented the commitments over \$10,000 report. There were no new commitments to report this month.

6. Chief Counsel Report

Mr. Benedetti reported on the following:

FY 2017 Budget

The House Ways and Means (HWM) FY 2017 Budget was released on April 13, 2016 which the full House will debate the week of April 25, 2016. The proposal for CPCS did not include language or funding for a further study of CPCS. It also did not adopt the language from the Governor's budget to eliminate the increase in the hourly rates for the private bar.

The proposal did not include funding to annualize raises given to staff. Line-item 0321-1500 is funded at approximately \$1.3M less than what is required, not factoring in attrition and line-item 0321-1504 is funded at approximately \$500,000 less than what is needed, without factoring in attrition. Amendments have been filed to increase funding in both line-items.

Proposed funding for line-item 0321-1510 is level with the FY 2016 budget. An amendment has been filed to increase the private assigned counsel rates for the following types of cases: Murder, Superior Court, and Mental Health and Sex Offender Registry Board (SORB).

An amendment was filed to allow the chief counsel to provide a waiver to increase the annual billable hours of private assigned counsel from 1,650 to 1,850 hours in certain instances and not just in Care & Protection (C&P) matters.

A final amendment was submitted for the creation of an attorney retention account that would help with agency efforts to retain attorneys at a point in their careers when they are capable of carrying a substantial complex caseload. This amendment would create a new line item account that would be funded in the amount of \$750,000. This account would be similar to one that has been funded for the District Attorneys.

Discussion ensued.

CAFL Crisis

Mr. Benedetti updated the members on the CAFL caseload crisis. The number of petitions filed by the Department of Children and Families continues to dramatically increase with filings up 16% over FY 2015 filings and 49% over FY 2013. Staff continues to discuss the situation with court administration about the issue.

Mr. Benedetti indicated that in FY 2013 the number of filings were 2,655. In FY 2014, the number of filings increased to 3,663. In FY 2015, the number reduced to 3,392. This fiscal year, the number of filings is on track to increase to 3,949.

Filings have increased throughout the State with the biggest challenges for CPCS being in Western Massachusetts. There is an extreme shortage of attorneys willing and able to take cases with some clients not receiving their statutorily-required 72 hour hearing in a timely matter.

CPCS continues with efforts to increase both staff and private bar capacity. CAFL Training has trained approximately 340 attorneys since April, 2014 and additional case taking attorneys have been hired.

Michael Dsida, Deputy Chief Counsel for the CAFL Division, echoed that conversations have been on-going with the Chief Justice of the Juvenile Court and the Chief Justice of the Trial Court.

Discussion ensued.

There being no further business to come before the meeting, the Committee adjourned at approximately 6:40 p.m.

Respectfully submitted,

Carol Ball, Secretary pro tem