

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

February 13, 2018

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, February 13, 2018, beginning at 5:43 p.m. R.J. Cinquegrana, Chairman, presiding.

MEMBERS PRESENT: Ms. Alvarado; Messrs. Miller and Rosenfeld and Ms. Shah

TELECONFERENCING: Mr. Hernando and Ms. Tewksbury

1. Minutes of January 17, 2018 Meeting

The minutes of the January 17, 2018 meeting were approved as presented with an amendment to include Ms. Alvarado as participating by teleconference.

2. Lease Extension

Chief Counsel Anthony Benedetti sought Committee approval for a five-year lease extension with Everett Mills Real Estate, LLC, for current office space located at 15 Union Street, Lawrence, Massachusetts. The office provides space for the District and Superior court staff. The terms of the lease are for 6,759 square feet at \$16.84/sq. ft. with an annual rate of \$113,815.

MOTION: Ms. Shah. That the Committee approve the five-year lease extension with Everett Mills Real Estate, LLC for office space located at 15 Union Street, Lawrence, MA for 6,759 sq. ft. at \$16.84/sq. ft. with an annual rate of \$113,815.

SECOND: Ms. Alvarado.

VOTE: Unanimous.

3. Monthly Financial Overview Report

FY2018

Kevin Lucchetti, Chief Financial Officer, presented the monthly financial overview report to the Committee for review. He continues to anticipate a projected deficit of approximately \$61M in the 0321-1510 and 0321-1520 line item accounts.

At previous Committee meetings Mr. Lucchetti mentioned the Administration and Finance (ANF) reserve account (1599-1690 Caseload and Deficiency Reserve) which includes funding to supplement CPCS in line items 0321-1510 (private attorney payments) and 0321-1520 (indigent court costs). On February 12, 2018, CPCS received a \$30M infusion into 1510 from this reserve account to off-set the \$61M deficit. As a result of this funding, the run out date for the 1510 account is now expected to be closer to the end of June. ANF has indicated that an additional \$31M will gradually be transferred into the CPCS account monthly, starting mid-April.

Notice has been distributed to the private bar regarding the supplemental funding.

FY 2019 Budget

The Governor released his budget on January 24, 2018. His proposed funding for the following line item accounts are:

0321-1500 – \$59,485,609

0321-1510 – 154,268,437

0321-1520 – \$23,184,600

Total proposed appropriation: \$236,938,646.

Mr. Lucchetti distributed a document detailing the budget appropriation summary which included information on spending for FY 2016 and FY 2017 and the estimated spending for FY 2018. It also included CPCS FY 2019 request, as well as the Governor's FY 2019 budget figures.

Mr. Benedetti mentioned that the Joint Committee on Ways and Means FY 2019 Budget Hearing was held earlier in the day. The priority issues raised in the testimony were staff salaries and the need for an increase to bring salary levels to comparable levels with the Executive branch, the critical need for an hourly rate increase for private assigned counsel, the CAFL counsel crisis and videoconferencing in the courts. Chief Justice Gants who testified at the hearing also highlighted the Children and Family Law counsel crisis.

The House is expected to release its version of the FY2019 budget in mid-April with the Senate to follow in late May.

4. Commitments \$10,000 and Over Report

Mr. Lucchetti presented the commitments of \$10,000 and over report to the Committee for review. There were no new commitments to report.

5. Chief Counsel Report

Mr. Benedetti presented an overview of counsel shortage issues in all the practice areas with the heads of the Youth Advocacy Division (YAD), Mental Health Litigation Division (MHL D) and the Children and Family Law Division (CAFL) providing more details about what is happening across the state.

YAD

Joshua Dohan, Director of YAD, informed the members that although there had not yet been a situation in which a child had gone without an attorney on a delinquency, YO or GCL revocation case, there have been challenges in Dedham, Plymouth, Hingham, Framingham, Lowell, Lawrence, Cambridge juvenile courts and in Berkshire, Essex, Franklin, and Hampden counties. The primary struggle has been making sure that lawyers are available every day for arraignments. It has also been a challenge making sure there are enough lawyers to handle all of the assignments. Approximately 40 attorneys have been added to the juvenile panel and lawyers have also been provisionally certifying to handle specific types of cases. A review of billing data from the previous fiscal year indicates that if the billing cap was raised to 1,800-2,000 hours, it would likely alleviate the struggles in locating attorneys for cases, at least in the short run.

MHL D

Mark Larsen, Director of the MHL D, provided an update on the challenges facing the MHL D. The MHL D has two types of cases – guardianships that are handled exclusively by the private bar and civil commitments, half of which are handled by staff attorneys. All cases assigned to the private bar are assigned by the MHL D. Demands on attorneys are extreme, especially for civil commitments, due to the quick timing of hearings – usually within three to five days. If cases are not heard in a timely fashion, the case law states the cases have to be dismissed. He is unsure what will happen if counsel cannot be assigned in a timely fashion.

Since 2013, the MHL D panel has diminished in size from over 400 to fewer than 300 active attorneys. At the same time, the demand on the attorneys has increased by nearly one-third. Staff has trained 150-200 attorneys but only half of those take cases.

The hourly rate is the greatest reason attorneys are not accepting mental health commitment cases.

CAFL

Michael Dsida, Deputy Chief Counsel for CAFL, informed members that, although they have been addressing the attorney shortage in Hampden County, they have also been working to address shortages in other counties; added a significant number of attorneys in other counties as the number of cases has increased. The number of petitions filed in Worcester County has increased by 13% from the previous year, and in Berkshire County the numbers are up by approximately 8%.

There being no further business to come before the meeting, the meeting adjourned into Executive Session at approximately 6:22 p.m.

Respectfully submitted,

/s/ *R. J. Cinquegrana*

R. J. Cinquegrana, Chairman