

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

January 20, 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, January 20, 2015, beginning at 5:37 p.m., R.J. Cinquegrana, Chairman, presiding.

MEMBERS PRESENT: Messrs. Gosselin, Kociubes, McGuire, and Stern
Ms. Steiker and Mr. White

MEMBERS TELECONFERENCING: Messrs. Hernando, Kennedy, and Ms. Tewksbury

Mr. Cinquegrana welcomed new Committee member Max Stern.

1. **Approval of December 17, 2014 Minutes**

The minutes of the December 17, 2014 meeting were approved as submitted.

2. **Amicus Requests**

a. **Commonwealth v. Pavel Lavrinenko**

Wendy Wayne, Director of the Immigration Impact Unit, sought Committee approval to submit an amicus brief in the matter of Commonwealth v. Pavel Lavrinenko. She explained that an amicus brief is necessary in this case to further clarify for the Supreme Judicial Court how a decision whether or not to plead guilty is significantly impacted by one's immigration status, and how a federal finding that an individual has a well-founded fear of persecution if returned to his home country should be a significant factor for a trial court to weigh in determining prejudice in a motion for ineffective assistance of counsel under Padilla v. Kentucky.

The Amicus Subcommittee has approved the request.

MOTION: **Mr. White. That the Committee approve the amicus request in the case of Commonwealth v. Pavel Lavrinenko.**

SECOND: **Mr. Kociubes.**

VOTE: **Unanimous.**

b. **Toca v. Louisiana**

Josh Dohan, Director of the Youth Advocacy Department (YAD), sought Committee approval to sign on to an amicus brief in the case of Toca v. Louisiana. He explained that the US Supreme Court recently granted cert. in Toca v. Louisiana, placing the question of retroactivity of Miller v. Alabama before the Court (holding mandatory sentences of life without parole for persons under age 18 at the time of the crime unconstitutional under the Eighth Amendment). He mentioned that the Juvenile Law Center, with

the assistance of Jeff Pokorak from Suffolk University Law School and Steve Harper from FIU Law School, is drafting an amicus in support of Toca and has asked YAD to sign on.

The Amicus Subcommittee has approved the request.

MOTION: **Ms. Steiker. That the Committee approve the request to sign on to the amicus brief in the case of Toca v. Louisiana.**

SECOND: **Mr. McGuire.**

VOTE: **Unanimous.**

3. Commitments \$10,000 and Over Report

Susan Burstein, Chief Financial Officer, presented the commitments of \$10,000 and over for review. There was only one addition to the report from the previous month which was for library purchases/updates.

4. Monthly Financial Overview Report

Ms. Burstein presented the monthly financial overview report for review. She informed the members that the report continues to reflect a deficit line items 1500 and 1504. Spending in the fiscal year will remain within the appropriation by primarily pushing back hiring dates and in some cases, not filling open positions.

Discussion ensued regarding vacancies and the effect on the agency of not filling the positions.

Donna Leete, Director of the Human Resources department, explained that the attrition rate through mid-fiscal year was approximately the same as the previous fiscal year.

Ms. Burstein went on to review the 0321-1510 and 1520 line items. She explained that line item 1510 year-to-date spending is up and reviewed the increases by month. She also stated that there is an overall increase in new cases, along with carryover assignments compared to last year at this time, with Children and Family Law cases having the largest increase in assignments.

5. Youth Advocacy Department Update

Mr. Dohan gave the members an overview of the Youth Advocacy Department (YAD). He provided an organizational chart of YAD and explained the operational workings of the department. He stated that the department strives to get the best possible life-long legal outcome for clients.

Mr. Dohan went on to discuss some of the highlights from the last few years: a focus on a unified public/private juvenile defense bar; improved performance management of staff and private bar; development of juvenile appeals expertise; progressive law reform; increased training; and, education advocacy. He stated that YAD is often pointed to as a model by both defenders and other child advocates.

6. Other Matters

Mr. Benedetti mentioned the final report that was released by the Governor's Commission to Review the Salaries of District Attorneys and Public Defenders and the Boston Globe article regarding the salary

issue, both of which had previously been sent to Committee members. He thanked Mr. Cinquegrana and Mr. Kennedy who were members of the Commission.

There being no further business, the Committee adjourned at 6:30 p.m.

Respectfully submitted,

Joseph L. Kociubes, Secretary