

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

January 17, 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 Wednesday, January 17, 2018, beginning at 5:37 p.m. R.J. Cinquegrana, Chairman, presiding.

MEMBERS PRESENT: Messrs. Kociubes and Rosenfeld, Ms. Shah and Mr. White

TELECONFERENCING: Mr. Hernando, Mses. Alvardao, Ball, Shah, and Tewksbury

Deputy Chief Counsel Nancy Bennett stood in for Chief Counsel Anthony Benedetti.

1. **Minutes of December 20, 2017 Meeting**

The minutes of the December 20, 2017 meeting were approved as presented.

2. **Amicus Request(s)**

Joshua Dohan, Youth Advocacy Division (YAD) Director, sought Committee approval to submit an amicus brief in the case of Commonwealth v. Lutskov, SJC-12411. The Supreme Judicial Court (SJC) issued the following amicus solicitation:

Where the defendant was convicted, as a youthful offender, of armed home invasion and other offenses, whether his sentence of twenty years in the State prison (the mandatory minimum for armed home invasion) violates article 26 of the Declaration of Rights. See Diatchenko v. District Attorney for the Suffolk District, 466 Mass. 655 (2013), and Commonwealth v. Perez, 477 Mass. 677 (2017).

The Court has notified the parties that the case will be scheduled for argument in March of 2018. Attorney Barbara Kaban, YAD's former Director of Juvenile Appeals, has agreed to write the amicus brief on behalf of CPCS.

MOTION: Mr. White. That the Committee approve the amicus request in the matter of Commonwealth v. Lutskov, SJC-12411.

SECOND: Mr. Kociubes.

VOTE: Unanimous.

3. Assigned Counsel Manual

Lisa Hewitt, General Counsel, sought Committee approval of the revised Assigned Counsel Manual and requested that any future amendments be approved by the Chief Counsel who would then report any changes to the full Committee on a quarterly basis.

She reiterated the discussion at last month's meeting regarding the process that went into making the changes to the manual, as well as the meetings that were held with subcommittee members, Paul White and Ragini Shah. At last month's meeting the revised manual was distributed to all members along with a section-by-section analysis of the proposed amendments. Members were requested to submit feedback to Ms. Hewitt by January 17, 2018. She indicated that she received no questions or comments.

Ms. Bennett recognized Bonnie Mullen for her work on the Assigned Counsel Manual (ACM)

MOTION: Mr. White. That the Committee approve the revised Assigned Counsel Manual and authorize any future amendments be approved by the Chief Counsel who will report any changes to the full Committee on a quarterly basis.

SECOND: Mr. Rosenfeld.

VOTE: Unanimous.

4. Private Counsel Compensation Hearings

Ms. Bennett informed the members that the dates for the private counsel compensation hearings will be March 6, 13, and 20, 2018. The tentative locations for the hearings are Boston, Springfield, and a location in Bristol County. Staff is working on organizing panels of private attorneys from all practice areas who will be prepared with data to deliver the most informative presentation possible. Members will be notified once the locations have been finalized.

5. Monthly Financial Overview Report

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. He expects to have more billing information in the next month or two to revisit his original estimate, with a possibility of increasing the attorney line item 0321-1510 forecast slightly in the next month or two.

The run out dates in the private attorney line item account (0321-1510) are estimated to be the end of March/ beginning of April, and end of April/beginning of May for the indigent court cost account (0321-1520).

Mr. Lucchetti reiterated what was discussed at previous Committee meetings regarding the reserve account to supplement funds for CPCS in line items 0321-1510 and 0321-1520. On-going conversations have been held with the Administration and they are hoping to move the process forward once the Governor's budget is released.

6. 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.

7. Chief Counsel Report

A. National Football League Listen and Learn Tour – presented by Joshua Dohan

A couple of years ago a number of National Football League (NFL) players started kneeling during the National Anthem as a way of protesting a variety of racial and ethnic disparities. This past year the movement gained momentum and a large number of players began to kneel. This created a controversy, as it was designed to do. As a result the NFL owners got together with a “players coalition” to talk about how the players could address racial injustice in the U.S. without threatening NFL profits. The owners and players together formed a fund to support social justice action, and have begun a listening tour. Devon McCourty, the leader of the Players coalition for the Patriots, reached out to a former YAD attorney to help schedule a day to look at various aspects of racial and ethnic disparities in Massachusetts with a special focus on the criminal justice system.

Mr. Dohan informed members that on January 5, 2018, a full-day event was held - half the day at Harvard Law School, cohosted by the Fair Punishment Project, and the other half at Haley House, a non-profit café that employs former prisoners as they transition back into freedom, in Roxbury. Over the course of the day, various staff members and other social justice advocates made presentations that introduced the Patriots to the racial and ethnic disparities that exist in our criminal justice and juvenile justice systems.

The next step is to write an Op Ed supporting raising the age of juvenile court jurisdiction. Mr. Dohan is working with Lael Chester of the Emerging Adult Project at the Justice Lab to draft the Op Ed. The players will also write to legislators, with the assistance of General Counsel Lisa. Hewitt and Community Liaison Maryann Calia, to request meetings to discuss the issues.

B. Nancy Bennett's Retirement

Ms. Bennett informed the members that she is retiring at the end of March, 2018. She plans to continue contributing to the mission of the agency in some way.

There being no further business to come before the meeting, the meeting adjourned into Executive Session at approximately 6:04 p.m.

Respectfully submitted,

/s/ *Joseph L. Kociubes*

Joseph L. Kociubes, Vice-Chairman