

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

November 18, 2021

The monthly meeting of the Committee for Public Counsel Services was held by videoconference on Thursday, November 18, 2021 beginning at 5:38 p.m. Joseph Kociubes, Chairman, presiding.

MEMBERS PARTICIPATING: Messes. Alvarado, Ball, Chester, and Petropoulos
Messrs. Apfel, Demissie, Kennedy, Miller, and Stern

The record will reflect that due to the Coronavirus pandemic, the meeting was held via videoconference.

1. **Minutes of October 21, 2021 Meeting**

The minutes of the October 21, 2021 meeting were approved as presented.

2. **Amicus Request(s)**

Commonwealth v. M.S., A Juvenile, SJC-13200

Sara LoPreseti, Staff Counsel for juvenile appeals, sought Committee approval to submit an amicus brief in the case of Commonwealth v. M.S., A Juvenile, SJC-13200. The Supreme Judicial Court issued the following amicus announcement:

Where the Commonwealth moved to continue the sentencing of the juvenile until after the juvenile's eighteenth birthday and acknowledged that it sought the continuance for the purpose of extending the maximum term for which the juvenile could be committed to the Department of Youth Services from his eighteenth birthday to his nineteenth birthday, whether the judge erred in continuing the sentencing date.

The amicus brief would include the following issues: 1) statutes governing the juvenile court jurisdiction may not permit the court to manufacture jurisdiction by continuing sentencing to a date after the juvenile's eighteenth birthday; 2) the brief would highlight the line of cases reinforcing the juvenile court's mandate to ensure rehabilitative aim is realized; and 3) the amicus brief would encourage the SJC to avoid the harm caused to youth by prolonged exposure to the juvenile legal system as a result of this additional, intentional delay.

MOTION: Ms. Chester. That the Committee approve the filing of an amicus brief in the case of Commonwealth v. M.S., A Juvenile, SJC-13200.

SECOND: Ms. Petropoulos.

VOTE: Unanimous.

3. Monthly Financial Overview Report

Mr. Lucchetti, Chief Financial Officer, presented the monthly financial overview report to the Committee for review, informing them that current estimated spending is approximately \$286M.

The legislature appropriated leftover funds from last fiscal year (PAC) that will be available for FY 2022 and added to our appropriation in line items 0321-1500 (\$650,842) and 0321-1520 (\$6.8M). These amounts will be reflected in next month's report.

Mr. Lucchetti provided a status update on the American Rescue Plan Act (ARPA). The Legislature is working on a compromise bill. The House included \$4.5M for CPCS to hire staff principally to address the counsel shortage and for billing system improvements; however, the Senate did not include this language in their bill.

4. Commitments \$10,00 and Over Report

Mr. Lucchetti provided the commitments of \$10,000 and over report for review, highlighting two items that deviated more than 10% from the pre-approved amount. The total amount of the two items is approximately \$730,469 and break out as follows:

- Dell Marketing LP. (IT Software Licensing) - \$598,641
- Cintas Corporation No. 2 (first aid kit maintenance/AEDs/safety training) - \$131,828

Mr. Lucchetti requested approval for the adjusted amounts for the two vendors.

MOTION: Mr. Demissie. That the Committee approve the current spending estimates for the two vendors as presented.

SECOND. Mr. Miller.

VOTE: Unanimous.

5. FY 2023 Budget Proposal – Maintenance Request

The budget subcommittee met on November 2, 2021 to begin consideration of the FY 2023 budget proposal. Staff and the budget subcommittee will meet again to consider any expansion requests and will return to the full Committee in December for approval.

Mr. Lucchetti proceeded to provide an overview of the FY 2023 maintenance request that was unanimously approved by the budget subcommittee. He requested Committee approval of the proposal that totals \$301.6M for fiscal year 2023. The amount requested is approximately 5.6% higher than the current FY 2022 spending estimate, although Mr. Lucchetti pointed out that spending is lower overall as a result of the pandemic.

Mr. Benedetti thanked the budget subcommittee for their work and stated that he looks forward to continuing the conversation regarding the broader expansion request.

MOTION: Mr. Kennedy. That the Committee approve the FY 2023 Maintenance Request of approximately \$301.6M as presented.

SECOND: Mr. Apfel.

VOTE: Unanimous.

6. Chief Counsel Report

Personnel Issues:

Mr. Benedetti was happy to report that all new recently hired attorneys passed the bar exam.

He also congratulated Elizabeth Ann Linfield for 44 years of service with the agency.

World Boston Presentation

Earlier this month, Mr. Benedetti, along with senior staff members, presented to World Boston's International Visitors Leadership Program. They had a delegation of individuals from 13 different countries, all of whom work in areas related to the law and criminal justice. An overview of the agency was provided to them, including the history of the agency, and detailed information regarding the various practice areas.

He stated that the experience was a good opportunity to speak with professionals around the world and to share what the agency is doing in Massachusetts.

Mass & Cass Update

There have been several high-level meetings with the Governor and various other stakeholders regarding the "stabilization" court that was created to handle the ongoing public health crisis at the area known as Mass and Cass.

He has made clear that CPCS is opposed to the concept, but staff have been working to protect client rights throughout the process. He provided an overview of how the process was working stating that a very small amount of people had been brought into the court and very little medical stabilization had been requested or provided. A number were sent back to courts where they had outstanding warrants.

He commended General Counsel Lisa Hewitt, Director of Criminal Trials Rose King, Deputy Chief Counsel Arnie Stewart, Attorneys-in-Charge Allison Cartwright and Carla Barrett and social workers Kristen Dame and Carrie Burke for all their hard work during this process.

Counsel Shortage Update

The counsel shortage continues primarily in the Western counties in adult criminal and CAFL care and protection but there has been an improvement over the last month.

The juvenile division does not have shortages and has added 18 new private attorneys to the panel.

The Mental Health panel's biggest challenge is getting attorneys to handle appeals and is examining ways to add members.

The situation in Hampden County has improved with the number of individuals without counsel down from over 100 people without counsel to 25, with 5 in Superior Court being held. Efforts continue unabated to provide counsel as quickly as possible. This result is from efforts made by staff and the bar advocate programs working collaboratively to assign cases.

The Single Justice in the Carrasquillo litigation appointed former Appellate Court Judge Judd Carhart as Special Master to review the facts in the case and recommend possible solutions. The Special Master indicated he does not want to have an evidentiary hearing and plans to proceed through affidavits. All affidavits are due Friday, November 19, 2021.

There has been an improvement in Hampden County with respect to the Children and Family Law (CAFL) area because of the contract that the Committee approved for Attorney Jay Clark, whose focus has been to get attorneys assigned to cases. There were approximately 100 clients needing attorneys in October and it is now down to 45 clients without counsel. It is the hope that once the courts open more, cases will move along quicker.

Another issue discussed was a recent Juvenile Court Standing Order that was issued as a result of the death of 14-year-old David Almond several months after he was reunified with his father.

The Standing Order initially imposed requirements on judges to set conditions in every case, even though the statutes do not require conditions; the conditions are discretionary.

Staff weighed in on what the Standing Order should be. The court accepted some of the suggestions but rejected others.

Michael Dsida, Deputy Chief Counsel for CAFL indicated that the focus of the Order is on the reunification of families. He informed the members that he has had conversations recently with the administrative office of the court regarding concerns with the Standing Order and an email was also sent to them on Wednesday, November 17, 2021 regarding the continuing concerns.

Mr. Dsida is hopeful that the Court will listen to the concerns and is hopeful they will delay the effective date of the Order. He will keep the members updated on any progress that is made.

There being no further business to come before the Committee, the Committee adjourned into Executive Session to discuss a litigation matter at approximately 6:35 p.m.

At approximately 6:54 p.m. the Committee returned to open session and reaffirmed the following motions made during Executive Session.

MOTION: Ms. Ball. That the Committee approve the filing of a class action lawsuit against the Sex Offender Registry Board.

SECOND: Mr. Miller.

VOTE: Unanimous.

There being no further business to come before the Committee, The Committee adjourned at approximately 6:55 p.m.

Respectfully submitted

/s/ *Mia Alvarado*

Mia Alvarado, Secretary