

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

September 16, 2025

The monthly meeting of the Committee for Public Counsel Services was held via video conference on September 16, 2025, beginning at 4:31 p.m. Joseph L. Kociubes, Chairman, presiding.

MEMBERS PARTICIPATING: Messes. Alvarado, Chester, Conrad, Dillon, Hall, Petropoulos

Messrs. Apfel, Cinquegrana, Healy, Kennedy, Kociubes, Tennen, White

1. **Minutes of July 16, 2025 Meeting**

The minutes of the July 16, 2025 meeting were approved as presented.

2. **Monthly Financial Overview**

FY25 Closeout:

- Total spending across all appropriations: \$338M of its \$339M appropriation, under the forecast of \$343M.
- State accounting system (MARS) shows a \$1.3M surplus at year end.

Line Items:

- The Administration/Operations 0321-1500 line – spending approximately at \$90M.
- The Private Counsel 0321-1510 line - Shows \$1.2M surplus due to the timing of payments. No supplemental is needed; used FY26 authorization (~\$2M) to cover FY25 bills. Attorneys were paid on time instead of being delayed.
- The Court Cost/Experts 0321-1520 line - The deficit is projected at \$1.7–\$2.2M; a request for \$2.5M supplemental remains with legislature.

Year-end closeout is unusually complex due to timing issues, but the overall result is positive.

3. **Audit & Oversight Overview – Director Bill Shay**

Director of Audit and Oversight Bill Shay presented an overview of the unit and the critical work they do.

Mr. Shay outlined the statutory responsibilities of the Audit and Oversight Unit under Chapter 211D §12. The unit enforces billing policies and oversees private attorney compensation. The A&O team includes several experienced attorneys, some who were formerly CPCS panel attorneys, along with a chief auditor, a data analyst, and an audit specialist. Each year, the unit processes roughly half a million invoices.

Mr. Shay described the systems the unit uses to maintain oversight and accuracy. First, there is an automated pre-screening process in eBill that corrects errors before invoices are submitted. Then, through internal controls, the team conducts both random and targeted audits of bills. The targeted reviews focus on unusual or extraordinary submissions and were refined based on guidance from the state auditor's office.

In addition to oversight, the unit places a strong emphasis on training and communication. Mr. Shay highlighted a well-attended town hall for private attorneys in April, with 270 attorneys participating. This session aimed to clarify billing rules and also gather feedback. According to post-event surveys, 85% of attendees rated it as "excellent" or "good." The event revealed gaps between staff perceptions and attorneys' understanding of billing policies, which the unit is always working to address.

Mr. Shay discussed the state audit process. CPCS has undergone several audits over the years: in 2007, 2011, 2017, 2019, and 2022, and one currently underway. This latest audit began in May. Since June, the A&O team has met weekly with the state auditor's staff, responded to more than fifty document requests, and participated in interviews related to fraud investigations. The audit focuses on data and systems rather than finances. The testing phase is set to begin shortly, and once it is completed, CPCS will receive a draft report to which they can respond. The final report will be made public several months after fieldwork concludes.

He also shared several recent improvements. His team has rewritten over one hundred automated eBill messages to make them clearer and more professional. They are collaborating with IT to explore additional automation to reduce the administrative burden on private attorneys. Other changes include easing insurance reporting requirements and revising travel billing rules to address mileage issues between cities.

Mr. Shay will meet individually with Committee members that have questions or comments about specific billing practices or the requirement to provide receipts for in-house postage over \$50. The billing manual will be reviewed for clarity and revisited at a future meeting. Mr. Shay also clarified the stages of testing, draft reporting, and final publication audit timeline.

In conclusion, Mr. Shay emphasized that the overarching goal of the unit is to ensure that public funds are well spent and that the billing and audit systems foster trust and confidence in CPCS's fiscal oversight. The Committee thanked Mr. Shay for excellent work.

4. Update on Response to Legislation to Address Attorney Shortage

Chief Counsel Anthony Benedetti updated the Committee on the agency's legislative response, status of the attorney work stoppage and unrepresented individuals, and staff hiring. He explained that CPCS submitted the required report to the Legislative and Executive branches, a comprehensive report that was the result of collaborative work from many staff members. He then highlighted recent hiring efforts, noting that a new class of forty-two attorneys began just after Labor Day. Most of these hires joined the Public Defender Division, with a few in the Children & Family Law Division (CAFL) and Mental Health Litigation Division (MHL). Twenty of the new attorneys were placed in Suffolk and Middlesex Counties, where staffing needs are most critical.

Twenty-two attorneys were added to the training class post-legislation as a result of efforts made over just seventeen days. Training for new attorneys is underway, and CPCS is planning at least two, possibly three, more trainings before the end of the year to add to staffing as required by the new legislation.

Public Defender Division Deputy Chief Counsel Arnie Stewart provided details about recruitment and future hiring. She began by congratulating Anthony and Committee member Miriam Conrad on their induction into the 2025 Lawyers Weekly Hall of Fame. Ms. Stewart emphasized the remarkable achievement of hiring twenty-two lawyers so quickly and outlined upcoming hiring plans. A December 15 class is scheduled, focusing on bringing in experienced attorneys. Additional classes are planned for March and June, with a large hiring round expected in September 2026. CPCS is conducting active recruitment at Harvard, NYU, and multiple Massachusetts law schools. The December class aims to include 30 to 40 experienced attorneys, with 25 as the minimum target. She also described how the hiring process has been streamlined to improve efficiency of the process, while also ensuring quality candidates. CPCS is also strengthening infrastructure by hiring and training additional supervisors to support the incoming attorneys.

Mr. Benedetti acknowledged the extensive teamwork involved, recognizing contributions from CAO Tere Ramos, CFO Kevin Lucetti and the facilities staff, CIO Jon Bartelson and the IT team, and CHR Sandra DeBow-Huang.

Legislative requirements for contracts with private attorneys were discussed. General Counsel Lisa Hewitt explained that new legislation mandates contracts with all private bar attorneys, including a minimum engagement clause. While bar advocate programs have long had contracts, many other divisions have not. Ms. Hewitt and Assistant General Counsel Sam Aylesworth are working with department heads to develop tailored but consistent contracts across divisions. Once finalized, the contracts will be distributed electronically to streamline the process.

Private Counsel Division Deputy Chief Counsel Holly Smith added that while some attorneys have expressed pushback, formal contracts are ultimately a sound business practice and will help CPCS better estimate coverage levels. Mr. Benedetti addressed concerns about “antitrust language” in the legislation, clarifying that after discussions with legislative staff, this language is not expected to appear in the contracts. It is intended only to restate existing law, not impose new requirements.

A Committee member raised questions about the timeline for contract distribution and what would happen if attorneys refused to sign. Ms. Hewitt responded that contracts are expected to go out within six weeks, pending regulatory review by the Attorney General’s Office. Mr. Benedetti explained that attorneys who do not sign will not be able to accept new cases, as individual contracts are required by statute.

5. Update on Unrepresented Clients and Attorney Work Stoppage

Chief Counsel Anthony Benedetti provided an update on the counsel crisis and Private Bar work stoppage.

Youth Advocacy Division (YAD)

Since the resumption of law school clinics in September, the Youth Advocacy Division has experienced notable improvements. The number of unrepresented juveniles has declined significantly. Currently, only one juvenile in Suffolk County remains unrepresented. Norfolk County, by contrast, has sixteen unrepresented juveniles, which is higher than Suffolk. This pattern runs counter to the trends observed for adult defendants.

Public Defender Division (PDD) and Private Counsel Division (PCD)

Since May 27, more than 6,650 defendants have been reported without counsel, including 1,206 who were in custody. As of Monday at 5:00 p.m., 2,870 defendants remain without counsel, and 66 of those are in custody. Suffolk County shows measurable progress, while Middlesex County has seen less improvement. Suffolk currently has 38 in-custody defendants without counsel compared to 26 in Middlesex. Out of custody, Suffolk has 1,254 unassigned defendants, while Middlesex has 1,163.

Since the Lavallee protocol went into effect on July 7, 173 defendants have been released under various conditions, and 857 cases have been dismissed after the 45-day hearings.

Weekly Trends and Assignments Rates

Weekly unassigned numbers have steadily declined, especially in the Boston Municipal Court (BMC), which reported 78 unassigned cases last week compared to over 200 during the summer. Middlesex and Chelsea have also seen decreases, now reporting 123 unassigned cases, down from much higher levels in July and August.

Assignment rates are improving in these regions as well. In Middlesex and Chelsea, recent weekly assignment rates ranged from 65 to 67, up from 23 to 30 during July. In BMC, weekly assignments reached 95 and 86, a significant increase from the mid-summer range of 39 to 46.

Duty Day Coverage

Duty day coverage has improved across several regions. In Suffolk and Chelsea, the percentage of unfilled duty days dropped from 55 percent in August to 41 percent in September. BMC improved from 65 percent unfilled to 49 percent. Middlesex County remains essentially unchanged, with 78 percent of duty days unfilled compared to 79 percent previously.

Overall, Suffolk County continues to show steady progress, while Middlesex remains the most challenging area.

Lavallee Protocol Refiling

Prosecutors retain full discretion to refile cases under the Lavallee Protocol, and the court has not placed restrictions on this practice. Middlesex County has aggressively refiled nearly all dismissed cases, while Suffolk County has taken a more selective approach.

Although this refile activity could lead to a renewed surge of cases, defendants are expected to have counsel when they return to court. There is some concern, however, that certain defendants may miss their notices and be defaulted as a result.

Regional Updates Beyond Suffolk and Middlesex

Other counties are generally showing improvement. Essex County has reduced its number of unrepresented defendants from 340 in early September to approximately 210. Norfolk County

has lowered its number to 28, and Hampden County currently reports 48 unrepresented defendants. Most remaining counties are stable or show gradual improvement, with more attorneys beginning to accept out-of-custody cases.

Impact of Rate Increase

The recent \$10 per hour rate increase may be contributing to these positive trends, though it is too soon to draw definitive conclusions. Some attorneys have returned to take cases because of the increased compensation, while others have returned for unrelated reasons such as seasonal availability or personal changes. There is no single, clear explanation for the improvement at this time.

Next Steps

CPCS leadership will continue to meet regularly to address ongoing challenges and develop a “Plan B” focused on the most problematic areas, particularly Middlesex County. The agency will closely track refiling activity and monitor duty day coverage.

While Suffolk County’s progress is encouraging, Middlesex remains the area of greatest concern moving forward.

6. Chief Counsel’s Report

Mr. Benedetti provided further additional agency updates.

Immigration Counsel Funding

The FY26 budget includes a line item within the Office of Refugee and Immigrants to fund an RFP for providing counsel in immigration cases. CPCS is exploring using these funds to assist existing clients who are indigent and already represented in other practice areas, rather than taking on new clients outside CPCS.

Pre-Petition Representation Project (CAFL)

As of June 30, the Pre-Petition Representation Project was serving 87 families. Outreach continues to involve additional families, and early outcomes are positive. Several families have avoided the removal of their children, and some DCF cases have been closed as a result of the services provided by this program.

Juvenile Court Rules Update

New rules regarding care and protections went into effect on August 4. These rules were largely developed through the trial court working group, with CPCS actively involved in the process. The goal of the rules is to streamline the care and protection process without compromising clients’ rights. While CPCS opposed some rules, they were still implemented, and outcomes are being monitored.

Mental Health Litigation Division Representation

CPCS continues to face challenges with late assignments of counsel to clients in hospitals in Greater Boston. To address this, CPCS plans to hire additional staff in the Boston office. Civil commitment training recently included 15 participants, a significant increase, but a continuing

challenge is ensuring that trained lawyers actually take on cases rather than opting out or taking private work.

7. Executive Session

Started at 5:46 p.m. and ended at 7:05 p.m.

Return to Open Session at 7:05 p.m. Mr. Kociubes stated that the Committee met in Executive Session to discuss a potential SJC litigation matter. Another special Executive Session Committee meeting will be scheduled to continue the discussion.

The next meeting may be remote or in person; the format is to be determined. There being no further business to come before the Committee, the Committee adjourned at approximately 7:06 p.m.

Respectfully submitted

/s/ Mia Alvarado

Mia Alvarado, Secretary

COMMITTEE FOR PUBLIC COUNSEL SERVICES

MINUTES OF MEETING

September 24, 2025

The meeting of the Committee for Public Counsel Services was held via video conference on September 24, 2025, Joseph L. Kociubes, Chairman, presiding.

MEMBERS PARTICIPATING: Messes. Ball, Chester, Conrad, Dillon, Hall, McKinnon,
Messrs. Apfel, Kennedy, Kociubes, Tennen, White

1. Executive Session

a. SJC Brief

Open Session at 5:20p.m. Mr. Kociubes stated that the Committee met in Executive Session to discuss staff's SJC brief recommendations.

MOTION: Ms. McKinnon. That the Committee adopt the staff's recommendations regarding the SJC Brief.

SECOND: Mr. White.

VOTE: The motion passed 8-3 (Voting yes: Mr. Apfel, Ms. Ball, Ms. Chester, Ms. Conrad, Ms. Dillon, Ms. Hall, Ms. McKinnon, Mr. Tennen; Voting no: Mr. Cinquegrana (by proxy), Mr. Kennedy, Mr. White)

MOTION: Mr. Kennedy. That the Committee approve noting in the SJC Brief that the decision was not unanimous.

SECOND: Mr. White.

VOTE: The motion failed 4-6. (Voting yes: Ms. Ball, Ms. Dillon, Mr. Kennedy, Mr. White; Voting no: Mr. Apfel, Ms. Chester, Ms. Conrad, Ms. Hall, Ms. McKinnon, Mr. Tennen)

There being no further business to come before the Committee, the Committee adjourned at approximately 5:24 p.m.

Respectfully submitted

/s/Joe Kociubes

Joe Kociubes, Chair for Mia Alvarado, Secretary