Committee for Public Counsel Services
75 Federal Street, 6th Floor, Boston, MA 02110
Tel: (617) 482-6212 – Fax: (617) 988-8495

CPCS
Committee for Public Counsel Services
Defending the People of Massachusetts

ANTHONY J. BENEDETTI
CHIEF COUNSEL

CPCS Fiscal Year 2024 Budget Request

Testimony of Chief Counsel Anthony Benedetti

The Joint Committee on Ways and Means
Springfield Technical Community College
One Amory Square,
Building 2 - Scibelli Hall, 7th Floor Conference Center
Springfield, MA 01105

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For further information, please contact:
Lisa Hewitt, CPCS General Counsel
lhewitt@publiccounsel.net
617-512-1248

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"Fairness, Progress and Justice"

Good afternoon, Chairman Gomez and Chairman Williams and members of the Ways and Means Committee. Thank you very much for providing me the opportunity to speak to you today about the Committee for Public Counsel Services (CPCS) and our fiscal year 2024 budget request. My name is Anthony Benedetti, and I am Chief Counsel for CPCS.

As the Massachusetts public defender office, CPCS plays a crucial role in ensuring that every individual in the state has access to a fair and just legal system, regardless of their socio-economic background. That is our mission and mandate, and we take our role in the legal system seriously. Through the work of our staff and the hundreds of private attorneys who take our cases, we aim to keep Massachusetts as a model public defender system. Your unwavering support allows that to happen.

Massachusetts sets the standard for public defense because the right to counsel has been part of the commonwealth's DNA since the 1790s, when citizens were first assigned attorneys in serious cases. Sixty years ago, last month, the United States Supreme Court established the right to counsel across the nation in the *Gideon v. Wainwright* decision. It was a welcome development, and public defenders have acknowledged and celebrated the anniversary. In many jurisdictions, it is time spent realizing how far they are from the promise of Gideon. In Massachusetts, we are able to celebrate Gideon because of a public defender system that is the envy of so many across the country. We are truly able to celebrate the Gideon anniversary because of what has been established here.

As we considered this year's budget request, we did so with the promise of Gideon in mind. In explaining our need, we want to focus on our pursuit of fairness, progress, and justice. These three concepts are inextricably intertwined, and without one, the other two will surely falter. How can justice be done in an unfair manner? How can we root out systemic issues without progress?

We seek **fairness** every day by standing next to those who have the least and holding the government to its burden. **Progress** is how public defense in Massachusetts evolved from a small group of lawyers taking serious criminal cases, to a statewide agency that provides counsel to adults and juveniles in all criminal matters, and to the mentally ill, and to children and families. We provide education attorneys to ensure children's fair and equitable treatment under Massachusetts' education system. Our Immigration Impact Unit advises all appointed counsel **about the specific immigration consequences of criminal dispositions and how to mitigate those consequences where possible. Our parole unit works** to bolster successful reentry through advancing the rights of people who have the opportunity for parole and

medical parole release – and there is so much more. We pursue **justice** through litigation and policy advocacy aimed at eliminating the racial and ethnic inequities that continue to plague the legal system.

We have been able to accomplish some truly meaningful initiatives that are having a real impact on the people of Massachusetts and the legal system at large. Your ongoing support makes these initiatives possible:

- Through our Private Counsel Division (PCD), our Innocence Program has freed people who have spent more than 600 years behind bars for crimes they did not commit. Through litigation, CPCS attorneys, Bar Advocates and investigators have shone a light on prosecutorial misconduct, biased policing, and faulty forensics – major, systemic flaws that have stolen years of freedom from our fellow citizens.
- Our Special Projects Unit continues to respond to the ongoing fallout from the Hinton Drug Lab scandal. As you know, tens of thousands of individuals have already received relief, and now we believe that there are hundreds of thousands of additional tainted convictions as a result of recently discovered wrongdoing. We have and will continue to pursue every appropriate remedy for all these individuals.
- Recently, CPCS was selected by Columbia Justice Lab's Emerging Adult Justice Project as one of three Innovation Sites nationally that will implement a new Developmental Framework specifically designed for youth ages 18 - 26 to improve outcomes. Our Youth Advocacy Division and Public Defender Divisions are launching an Emerging Adult Pilot Office in Lowell and Lawrence, with the goal of bringing together juvenile and adult attorneys, social workers, investigators, and an education attorney to collaborate in a unit that will develop and employ best practices in representing emerging adult clients.
- Attorneys with our Children and Family Law Division, faced with lingering issues from COVID-19, successfully argued to the Supreme Judicial Court that parent-child visits must be in person absent a pandemic. No more will a parent feel helpless having to try and build a relationship with a toddler or infant over Zoom.

CPCS is also continuing our work to improve operations so that we can be as efficient and effective as possible for the overall benefit of our clients, while making CPCS a desirable destination for attorneys, vendors and other non-legal employees:

- For example, our IT department is implementing new technologies – such as transcription software Justice Text - that will save our attorneys time as they litigate cases. Nationally and here in Massachusetts, public defenders are miles behind the technological advancements of law enforcement, but our IT team is working to close that gap.
- Our Finance department is overhauling our Attorney and Vendor onboarding process, which will make it easier for those who want to do work for and get paid by CPCS. Our HR Department is creating new pathways for engagement for current and prospective employees – mentoring, career ladders and other meaningful tools for attracting and retaining diverse staff. We are revamping our performance review system to better engage staff, provide meaningful and actionable feedback and build measurable performance goals to best support equity, opportunity, and professional development.
- We have boosted recruitment strategies to meet the new challenges posed by the legal market. Our staff recruiters are travelling across the state – and at times the nation – to meet lawyers

and law students and explain what we do – why we are different – while highlighting many of the initiatives I have spoken with you about today.

Finally, although as a public defender agency, most of the focus is understandably on our outstanding attorneys, I want to also highlight the outstanding work of the rest of our professional team: the social workers, investigators and administrative assistants who work tirelessly to support the attorneys and enhance our overall representation for the individuals who face the awesome power of the state.

All of this would not be possible without your ongoing support. This year, our budget proposal is once again focused on making progress on the ongoing challenges related to recruitment and retention of staff and private attorneys that we have raised over the last few years.

CPCS is sandwiched between two harsh realities that are making delivery of services more difficult. We have an aging bar, and we have a growing number of staff and private attorneys who have either retired or leave the practice to do something else. Meanwhile, law school admissions are down, with fewer students aspiring to go into social justice work. This means we are competing for a smaller population of new attorneys with private sector firms and other higher paying government agencies. These new attorneys are frequently saddled with six-figure debts, and while the Legislature has generously provided funding for us to raise staff salaries and private counsel hourly rates in recent years, it is in this area that we look to make further progress.

Fiscal Year 2024 Budget Proposal

CPCS is requesting a budget of **$362,846,135** for FY 2024, a funding level that would provide the necessary resources to maintain current staffing levels and provide additional compensation for staff and the private bar attorneys. Specifically, it would fund the annualization of staff salary increases, including a legislatively authorized increase in our attorney starting salary to $68,000 which was implemented to keep pace with the salaries of assistant district attorneys. It would also provide funding for a further mid-year salary increase, critical to retention and the minimizing of attrition. The proposal would also provide for a further increase in the hourly rates for the private bar to keep pace with inflation and most importantly assist with ongoing efforts to recruit new attorneys to all practice areas panels and to get private attorneys already taking cases to take more. Finally, it would fully fund all existing leases for our twenty offices and contracts with the bar advocate programs that administer the right to counsel locally for criminal and delinquency representation. The full details of our request are in the attached PowerPoint.

The Governor's Budget

The Governor's budget would not allow us to maintain the positive trajectory this agency is currently on and in fact, would be extremely harmful. House 1 proposes a funding level in the amount of $319,111,507 which is only $85,000 more than what we expect to spend in the current fiscal year, and $22.1 M less than our maintenance request.

The Governor's budget does not provide funding for the annualization of current year salary increases or for any additional increases next fiscal year. It would jeopardize our ability to hire our new fall class of adult criminal defenders and children and family law attorneys, many of whom are slotted for our western Massachusetts offices where capacity has been an ongoing challenge. The Bar Advocate programs would receive less funding in fiscal year 2024 than necessary to carry out their duties. The Governor's budget also does not provide for any funding beyond maintenance for any increase in the private bar hourly rates, at a time when counsel capacity continues to be a serious problem, especially in particular parts of the state, not making further progress with salaries and hourly rates would exacerbate the problem. Additionally, the proposed funding would not cover the annualized costs of leases for offices across the state. All of this would hinder the progress we have made, and there is no doubt the indigent population of Massachusetts would suffer. Our pursuit of fairness, justice and progress in the legal system requires passionate, talented people and appropriate funding to recruit and retain those who provide these constitutionally and statutorily mandated services.

Conclusion

CPCS plays a critical role in ensuring that every individual has access to a fair and just legal system. This budget proposal outlines key areas for investment and recommends a budget allocation that can support not just this office's mission, but by investing in CPCS, you are investing in the fairness of the legal system, an invaluable check on government overreach and in the lives of an untold number of people who are already bearing the weight of poverty. Our budget proposal will allow us to live up to Gideon's promise and ensure that the Massachusetts legal system promotes fairness, progress, and justice for all.