



CONNECTICUT ADVISORY COUNCIL ON HOUSING MATTERS



Reply to: 16 Main St., 2nd floor
New Britain, CT. 06051
(860) 616-4472

NOTICE OF THE NEXT MEETING

- 2:00 pm

Wednesday, June 13, 2018

**Quinnipiac University Law School, Library Commons
(2nd floor)
370 Bassett Rd., North Haven
(call 860-334-0393 for directions)**

Please mark your calendar.

Minutes of the meeting of March 14, 2018

Council Members present: Mary Conklin, Venoal Fountain, Friedrich M. Helisch, Kathy Flaherty, Houston Putnam Lowry, Stephanie Ma, Raphael Podolsky, J. L. Pottenger, Jr., Margaret Suib, Richard Tenenbaum

Absent: Loo Dahlke, Richard DeParle, Jane Kinney-Knotek, Carl Lupinacci, David Pels, John Rowland, Lynn Taborsak, Juan Verdu

Also present: Judith Dicine (Div. Crim. Justice), William Pitt (Judicial), Roberta Palmer (Judicial), V. Edward Quinto (member of the public)

The meeting was called to order by the Chairperson, Raphael Podolsky, at 2:10 pm at the Quinnipiac University Law School, Library Commons, 370 Bassett Rd., North Haven, CT.

1. Preliminary matters
 - a. Approval of agenda – The agenda was approved by consensus.
 - b. Approval of the minutes – The minutes of the December 13, 2017 meeting were approved on a motion by Houston Putnam Lowry, seconded by Kathy Flaherty.
2. Public comment –None (no members of the general public present at the start of the meeting).

3. Magistrate Manual – The Chairperson summarized the Stage 1 draft. A motion was made by Houston Putnam Lowry to approve the draft, subject to inclusion if appropriate of reference to CHFA v. Alfaro, 328 Conn. 134 (2018) (concerning attorney’s fees in cases which are withdrawn), correction of typos, and the usual editorial prerogatives. All other changes will be deferred to the Stage 2 draft. Post-meeting note: It was subsequently determined that whether to include Alfaro should be deferred to Stage 2.] The motion was seconded by Mary Conklin and approved by all present. The Council will ask Judicial to substitute the Stage 1 draft for the 2007 version that is currently in its electronic system for use by magistrates. It will also ask that Judicial print sufficient copies for targeted magistrates (those who handle a lot of housing matters). Roberta Palmer agreed to check on printing.

4. Updates

- a. Housing court operations – Roberta Palmer

- i. Budget and staffing: No significant changes. She suggested that everyone read Judge Carroll’s testimony to the Appropriations Committee during the budget hearings (attached as Appendix A). Judicial has absorbed budget cuts more than double the percentage that has been applied to other state agencies. There have been layoffs and a significant number of retirements. This has put pressure on all courts in the system and sometimes generated back-ups.
 - ii. Transfer of small claims court cases: About 70,000 small claims court cases are filed each year. About 93% of small claims court cases are filed by attorneys. Small claims court is intended to be an easily accessible process (priority mail service, etc.). Bridgeport in particular has had many staff changes which impacted the timely processing of cases. Technology has, however, eased the transition into the civil/family system, even with reduced staffing. Roberta Palmer should be contacted in regard to small claims issues (delays, etc.).
 - iii. Movement of summary process cases (Roberta Palmer/Bill Pitt). Judicial is aware only of Hartford as a location that has had significant delays. Bill Pitt reports that there are no longer delays in Hartford; trials are usually held the same day. Audita applications are scheduled for the week in which they are filed. Judge Shah has issued standing orders that all stipulated judgments need to outline rental arrearages, attorney fees, and court costs. They also provide that attorney fees are to be included only when there is a written lease agreement that authorizes them and that a claim for more than \$550 in attorney fees must include an affidavit with specifics regarding the fees. Hartford is the only housing session with standing orders. A copy of the Hartford standing orders is attached as Appendix B.

- b. Housing court judge assignments

- i. New Haven/Waterbury: Judge Avallone is now a Judge Trial Referee, as a result of which he works only part-time. He is continuing as the New Haven-Waterbury Housing Court judge on a 3½ day per week basis. He sits in New Haven on Tuesdays and Thursdays, in Waterbury on Wednesdays, and one

Friday per month each in New Haven and Waterbury. Judge Spader, who covered for Judge Avallone while he was away, is available on other days to review motions, etc.

- ii. Hartford/New Britain: Judge Cohn is handling New Britain housing cases.
 - c. Public access to data – Tabled.
 - d. Housing Prosecutor updates - Judith Dicine: There are currently three full-time housing prosecutors covering the entire state. The Hartford/New Britain position is open and will be posted in the next round of hiring. It is currently being covered by Donna Parker, who already covers New London, Fairfield, and Stamford/Norwalk. Steve Lesko is covering Middlesex County.
 - i. Police training manual – Tabled.
 - ii. Statewide Property Maintenance Code – The Department of Public Health is in favor of the idea and will act as the administering agency, but no one has so far filed a bill in the legislative session.
 - iii. State Health Improvement Plan (SHIP). SHIP continues to move forward. There is also an active Green and Healthy Homes Initiative. Funding is from the CT Green Bank for energy conservation and healthy housing to prevent injury and illness. Private money is being sought to replace legislative budget cuts.
5. Legislative report – None.
 6. Electronics, Computerization & Website Committee – Houston Putnam Lowry will schedule a meeting with Roberta Palmer and P.J. Deak. A question was raised about e-filing a motion to substitute party plaintiff. There is no way to file an appearance online. That has to be filed in person or by fax.
 7. CACHM membership – The terms of all members expire at the end of June. Council members should let the Chairperson know whether or not they wish to be re-appointed to the Advisory Council.
 8. Meeting locations for 2018 – The Council is still searching for a permanent meeting location. Other choices include DOT in Newington, CBA in New Britain, and Burroughs Community Center in Bridgeport. Jay Pottenger agreed to continue to look for locations in New Haven. The location should have sufficient inexpensive parking and a large enough meeting room.
 9. Other business – public comment: V. Edward Quinto raised questions about when guests had legal rights for the purposes of eviction and why the police won't get involved. Judith Dicine offered to meet with Mr. Quinto about these issues.
 10. Adjournment: A motion to adjourn was made by Jay Pottenger and seconded by Venoal Fountain. It was approved unanimously. The meeting adjourned at 4:06 pm.

Respectfully submitted,

Kathleen Flaherty
Secretary

APPENDIX A



STATE OF CONNECTICUT
JUDICIAL BRANCH

CHAMBERS OF
PATRICK L. CARROLL III
CHIEF COURT ADMINISTRATOR

231 CAPITOL AVENUE
HARTFORD, CT 06106

**Testimony of Judge Patrick L. Carroll III
Chief Court Administrator
Appropriations Committee Budget Presentation
February 20, 2018**

Good morning Senator Osten, Representative Walker, Senator Formica and members of the Appropriations Committee. My name is Patrick L. Carroll III, and I am honored to come before you this morning for the fifth time as the Chief Court Administrator. I appear before you today at a time when the Judicial Branch is in a period of significant transition.

On February 5th, Chief Justice Chase T. Rogers retired after leading the Branch since 2007. I was fortunate to serve with Justice Rogers throughout her tenure. These have been a difficult 11 years for the Branch and state government in general, and Justice Rogers' steady hand and commitment to an open and transparent Judicial Branch has been critical to the Branch and our legislative and executive partners.

Additionally, within the past several months the long-serving executive directors of three major Branch divisions have elected to retire. We are indebted to them for their service and grateful that their qualified successors are in place. I am confident that going forward the Branch will maintain its reputation for fiscal responsibility, innovation and service to the citizens of Connecticut.

Background

I reviewed the testimony that my predecessor Judge Quinn and I have provided to you over the past 10 years. Each year has been marked by unique challenges but each year also has a common thread – budget cuts that continue to erode our ability to meet our responsibilities. Years of unrelenting budget pressure has taken a toll on the Judicial Branch, but we have persevered throughout, finding ways to live within our means. We have faced ever declining appropriations, often in significant amounts.

- *In FY 2017, our appropriation was \$77 million less than we indicated the Branch needed to operate.*
- *Our FY 2018 General Fund appropriation is fully \$61 million less than our budget in FY 2016.*

The Branch is one of the larger budgeted entities in state government, but nonetheless represents only about 3 percent of General Fund appropriations. The Branch's General Fund appropriation peaked at about \$555 million in 2016, and has since declined to approximately \$494 million in the current fiscal year. It is an unfortunate fact that budget reductions have most often far exceeded the Branch's proportionate share of the budget, by a threefold amount in some cases. We have nevertheless done our best to preserve the services to the citizens of Connecticut.

Finding ways to cope with these reductions has become more challenging in each succeeding year. Hiring delays and deferrals that were sufficient to address budget shortfalls 10 years ago are no longer adequate measures today. Ever more severe measures have been necessary to live within our net appropriations and avoid budget deficiencies.

Staff Reductions

In June of 2016, we had no choice but to involuntarily reduce our workforce by 300 people. Essential staff were forced to leave the Branch. Judicial Marshals, Temporary Assistant Clerks who support our judges on the bench, Adult and Juvenile Probation Officers, Family Relations Counselors, Bail Commissioners and Juvenile Detention Officers were among those laid off or terminated. We certainly did not desire to take this action, but that was the only way for us to achieve \$15 million in personal services (PS) savings.

We did our best to transfer remaining staff to fill the gaps that resulted from the staff cuts, but problems were inevitable. Courtroom coverage by Marshals was curtailed, and judges were more frequently delayed in opening court because of a lack of support staff.

Unfortunately, the erosion of key staff has not ended. In calendar year 2017, an unexpected exodus of senior staff occurred. By the end of the year, almost 250 of our most senior and experienced staff elected to retire, more than four times the norm. Ongoing budget constraints have left their positions largely vacant.

As a result, the Judicial Branch today operates with a significantly reduced staff. We have 4,329 authorized full time positions. Only 3,450 of those are presently filled. A nominal number of vacancies is to be expected. Three years ago, we operated with approximately 4,100 filled positions. *That means we are down 650 filled positions in two years, a reduction of almost 16%.* More than 9 out of 10 Branch staff work in the field and the number of managers in the Branch is low, only about 5% of our workforce.

Consider the following:

- *The largest classification of Branch employees is Judicial Marshals with an authorized complement of over 820 and a present staff of only 604, despite the fact that we have offered reemployment to virtually every Marshal laid off in 2016. We are starting a training class of 35 Marshals this month, but because of ongoing attrition we are unlikely to see a net gain in security staff by the time the class graduates. We hope to start a second class at the end of this fiscal year but our budget situation may force us to postpone or cancel those plans.*
- *The number of Temporary Assistant Clerks and Paralegals, classes vital to judges in the courtroom, declined from 166 in January of 2016 to barely 120 in August of 2017. We are making concerted efforts to replenish their ranks. We simply cannot operate our courts without them.*
- *Adult Probation Officers are our second largest job classification, with an authorized workforce of almost 550. We presently have about 460 officers and supervisors and have had to adjust caseload and supervision levels accordingly. Of course, we continue to prioritize the supervision of high risk offenders.*

FY 2019 Budget Concerns

The cumulative consequences of the budget cuts and staff losses are such that I am no longer confident in our ability to adequately staff 44 courthouses throughout the state and satisfactorily perform all of the statutory tasks we have been given. While current staff vacancies challenge our ability to provide meaningful access to justice, further reductions to the Branch's budget, as well as failure to fully fund SEBAC contractual obligations, will require us to rethink how and where we conduct court business in Connecticut.

My comments paint a bleak picture of the Judicial Branch's fiscal situation. The question, then, is how we will fare in FY 2019 and beyond. We presently have two budget scenarios to consider. The first is the FY 2019 budget that you enacted in November 2017. The second is the Governor's midterm budget adjustments as proposed on February 7th.

- *Fully two-thirds of the Branch's budget is PS. Under the FY 2018 budget, the Branch has a PS appropriation of \$326 million.*
- *However, holdbacks and lapses have reduced our net PS appropriation in FY 2018 to \$307 million.*
- *The FY 2019 budget adopted by the Legislature provides the Branch with a PS appropriation of \$325 million.*
- *Assuming a similar allocation of lapses and holdbacks in the present FY 2019 budget, we expect to have \$306 million in PS available next year. This will be barely sufficient, with a caveat I note below, to meet our existing payroll, and will leave few opportunities to replenish key staff areas.*

The Governor's recommended adjustments to the Branch's FY 2019 budget carry forward the holdbacks and lapses that are presently in place. If adopted, this budget will similarly leave us in a precarious financial position.

Required New Funding

It is critical that I point out to you that neither the existing nor the proposed FY 2019 budgets for the Judicial Branch provide \$7.9 million that the Branch requires to implement mandatory provisions of the 2017 SEBAC agreement. The required funding includes:

- \$5.6 million to provide a \$2,000 lump sum payment to unionized Branch employees
- \$2.3 million to pay one additional longevity payment in FY 2018

The Governor's budget proposal does suggest that the funding needed for these items will be paid from a central *Reserve for Salary Adjustment Account* administered by OPM. I object to this approach for the following reasons:

- *We do not know if the \$92 million in that account is sufficient to meet the combined SEBAC obligations of all Executive Branch agencies as well as the Judicial Branch.*
- *Our prior experience with funding from the Reserve for Salary Adjustment Account is unfavorable. Funding is generally not provided until the fourth quarter of the fiscal year, leaving us overly constrained throughout the year. When provided, it is typically a fraction of the real dollars associated with the actions.*
- *Most importantly, we requested the necessary funding through the budget process. Not including the full amount requested in the Branch's budget is in violation of C.G.S. 4-73*

Juvenile Transfer

As I have outlined above, the Branch's budget difficulties and resulting staff losses dominate our attention on a daily basis. However, the budget you enacted in November also confers a major new responsibility on the Judicial Branch. That is the assumption of total responsibility for juveniles in the court system, a responsibility shared until now by the Department of Children and Families (DCF) and the Branch. Effective July 1, 2018, juveniles may no longer be committed to DCF following an adjudication of delinquency.

We are currently fully engaged in a planning effort, and we are working cooperatively with the Office of Policy and Management (OPM) and DCF to make the transition as smooth as possible, with the care and well-being of juveniles in our custody at the forefront. The Juvenile Justice Policy and Oversight Committee (JJPOC), under the leadership of Representative Toni Walker, OPM Secretary Ben Barnes and Senator Gary Winfield, receives regular updates on the initiative and they, along with the members of the JJPOC, provide feedback and counsel to us as we move forward. That being said, I will not go into further detail in this forum about the considerable effort currently underway to meet our deadlines but I will comment on two very significant budget items related to the transfer.

- 1) *The FY 2018 budget transferred \$8.8 million from two DCF accounts to the Branch. However, DCF still retains responsibility for juveniles committed to their custody by the court through June 30, 2018. To ensure that DCF can continue to provide necessary services and placements for these juveniles, we have agreed to transfer \$8.1 million back to DCF in the third and fourth quarters of the present fiscal year. This will not impact the Branch's efforts. However, the Branch's need for adequate funding to carry out the responsibilities you have given us grows significantly in FY 2019 and beyond.*

To that end, your FY 2019 budget transfers \$17.7 million from DCF to the Branch to fund the services and programs that we must have in place next year. Our assessment is that the amount will be adequate for FY 2019 because of inevitable delayed program startups, particularly for those that involve secure settings. We estimate the annualized cost of these services and programs to be approximately \$25 million. We will provide a more accurate assessment of our financial needs when we prepare our FY 2020-2021 biennial budget request this fall.

- 2) *The Governor's budget proposes to return \$7 million of the transferred funds to DCF, leaving the Branch with only \$10.7 million for FY 2019. This amount is insufficient to implement the will of the Legislature in transferring all juvenile justice responsibilities to the Branch.*

Conclusion

I always welcome the opportunity to provide the Appropriations Committee with an update on the state of the Judicial Branch and an assessment of the budget proposals that are under your consideration. As well, I appreciate that you recognize the Judicial Branch as a co-equal independent branch of government and always treat the Judicial Branch as fairly as possible in your budgetary recommendations.

I respectfully ask you to consider the following as you formulate your revised budget plan for FY 2019.

- *The Judicial Branch cannot absorb additional budget reductions, most certainly not in PS, whether through reduced appropriations or "back of the budget" language.*
- *The Branch requires \$7.9 million in additional funding in FY 2019, as submitted to OPM pursuant to C.G.S. 4-73, to pay for SEBAC costs that cannot otherwise be absorbed.*
- *The Governor's proposal to transfer \$7 million in juvenile justice funding back to DCF in FY 2019 must be rejected if the Branch is to successfully serve all youth in the juvenile justice system.*

Thank you for your consideration.

APPENDIX B



SUPERIOR COURT
HOUSING SESSION
80 Washington Street
Hartford, CT 06106-4417
Phone: (860) 756-7920
Fax: (860) 756-7925

Rupal Shah
Superior Court Judge

MEMORANDUM

To: All Attorneys and *Pro Se* Parties
From: Judge Rupal Shah
Re: Stipulations Involving Repairs/Stipulations w/o Court Canvass/Attorneys' Fees and Case Continuances
Date: March 8, 2018

STIPULATIONS INVOLVING REPAIRS

Effective immediately, all stipulations entered by the Court providing for repairs must:

- 1) Specify each of the repairs to be made;
- 2) Specify completion dates for each repair; and
- 3) Contain permission from the tenant to allow the repairs.

These statements are necessary to ensure timely compliance with health and safety requirements, and to prevent ambiguity in the stipulation.

STIPULATIONS ENTERED WITHOUT COURT CANVASS

Effective immediately, all stipulations entered by the Court without the benefit of Court canvass must contain:

- 1) A statement by any attorney signing the stipulation on behalf of a client indicating authorization to enter into the stipulation on behalf of the client;
- 2) A statement that the defendant represents that he/she fully understands the agreement; and
- 3) A statement that the parties are waiving canvass before the Court.

An example of such language might be:

Counsel for the plaintiff is authorized to enter into this Stipulation on behalf of his/her client. The defendant represents that he/she fully understands the terms and conditions of the stipulation. The plaintiff and the defendant waive canvass before the Court.

These statements are necessary to ensure that parties fully understand any agreement entered without the benefit of a Court canvass.

STIPULATIONS INVOLVING ATTORNEYS' FEES

No legal fees can be charged to a defendant/tenant in a summary process action unless there is a valid **written** lease between the parties with an attorneys' fee provision. Stipulations must make reference to the specific lease provision. All attorneys' fees so charged are subject to review by the Court. Any attorney seeking approval of an amount in excess of \$550.00 in connection with any summary process action **must** submit an affidavit regarding time spent and the hourly rate charged. In any case, an affidavit of attorneys' fees may be requested by the Court.

All stipulations shall articulate, with specificity, each of the following: the rental arrearage, legal fees, court costs and marshal fees.

CONTINUANCE DATES

No case pending in the Hartford Housing Session will be rescheduled without express permission from the Court. All requests must be in writing unless an emergency occurs. If the continuance is granted by the Court, the requesting party must give written notice to the opposing party.