

## **Minutes**

### **Criminal Practice Commission**

#### **Immigration Committee**

**October 5, 2009**

**2:00**

#### **Supreme Court – Attorney Conference Room**

The Criminal Practice Commission's Immigration Committee met in the Supreme Court attorney conference room, located at 231 Capitol Avenue, Hartford, on Monday October 5, 2009.

Committee members in attendance: Justice Joette Katz (co-chair), Mr. William Carbone, Atty. Patricia Froehlich, Atty. Daniel B. Horwitch, Mr. Gary A. Roberge, Atty. Elisa Villa, Prof. Michael Wishnie

Committee members not in attendance: Hon. David Gold (co-chair)

The meeting was called to order at 2:05 PM by Justice Katz.

1. Justice Katz welcomed the members of the committee and asked the members to introduce themselves to the group. Justice Katz also welcomed those in attendance who were not committee members and asked them to introduce themselves.
2. Justice Katz asked Attorney Villa to provide an overview of the issue of immigration detainers. Attorney Villa stated that there are issues with how detainers are being used by law enforcement and the Judicial Branch and that a policy is needed on what can and cannot be done in regard to detainers. Attorney Villa stated that the current use of detainers amounts to federal immigration control at the state level.
3. Justice Katz stated that this is an advisory committee. It would make recommendations to the Criminal Practice Commission on what would be the ideal process for the Judicial Branch to follow regarding issues related to immigration.
4. A lengthy discussion ensued on what the Judicial Branch's policy is in regard to detainers. Mr. Carbone stated that it is the policy of the Court Support Services Division (CSSD) to ask each probationer for verification of their legal status in this country. If it is revealed that the probationer is not legally in this country, CSSD, at the request of Immigration and Customs Enforcement (ICE), will forward that information to ICE. Attorney Villa questioned why probation officers are permitted to inquire about immigration status when judges cannot.
5. Professor Wishnie indicated that there is a lack of knowledge amongst the actors within the Judicial Branch and law enforcement regarding detainers. He suggested that the committee map out each step of the judicial process to highlight what is occurring in regard to detainers.

6. Professor Wishnie stated that police departments in New Haven and Hartford, as well as throughout the country, have adopted a “Don’t Ask, Don’t Tell” policy in regard to immigration status. A discussion ensued concerning the legality of such a policy within the Second Circuit.

7. The discussion returned to the issue of what is the benefit to Connecticut for probation officers to inquire about a probationer’s immigration status. Mr. Carbone stated that ICE has asked for CSSD’s assistance in this area. Attorney Horwitch indicated that it is a condition of probation that probationers not violate any federal or state laws. In the past six months, roughly 15,000 individuals were asked about their status. Of that figure, 21 names were reported to ICE. Mr. Carbone and Mr. Roberge will inquire about the accuracy of that figure and what ICE did with those individuals reported.

8. A discussion ensued on the potential ramifications of the Judicial Branch’s policy. Concern was raised that the defense bar will instruct their clients not to answer status questions from probation officers.

9. Justice Katz asked Attorney Villa to prioritize the agenda items that will be addressed by the committee at future meetings.

10. Attorney Froehlich stated that she would contact the Department of Correction to obtain their representation on the committee.

11. The next committee meeting will be held on Monday, November 16, 2009 at 2:00 in the Supreme Court attorney conference room, 231 Capitol Avenue, Hartford.

The meeting adjourned at 3:52 PM.