

## **Minutes**

### **Criminal Practice Commission**

#### **Immigration Committee**

**November 16, 2009**

**2:00 PM**

#### **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 November 16, 2009.

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

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. The minutes from the October 5, 2009 meeting were reviewed and unanimously approved.
3. At the October 5, 2009, committee meeting, Mr. Carbone and Mr. Roberge were asked to provide the committee with an accurate number of individuals who were referred by probation to ICE. Mr. Roberge reported that in the past nine months, 89 names were forwarded to ICE, out of the approximately 22,000 cases processed. Of those 89 names, ICE responded to 11. A discussion ensued regarding how these numbers were determined.
4. Mr. Roberge distributed a November, 2008 survey, entitled "Supervision of Illegal Aliens," which surveyed how federal probation offices were interacting with ICE. A discussion ensued regarding the benefit of the survey to the committee.
5. A discussion ensued regarding CSSD's policy of asking probationers about their legal status and reporting it to ICE. Professor Wishnie has agreed to research what other states are doing in this regard and report his findings to the committee. Attorney John Hughes from the United States Attorney's Office will contact ICE to determine their interest in attending the committee meetings.
6. A discussion ensued regarding ICE activity in the courthouses. Much of the information regarding these activities is anecdotal, with claims that ICE is using prosecutors and Judicial Branch marshals and interpreters to detain individuals. Concern was raised that the committee may be reacting to a few isolated incidents. Attorney Villa

will survey the public defenders to determine their experiences in regard to ICE activities in the courthouses. Attorney Hughes will check to see if ICE has a policy regarding activities in state courthouses.

7. A discussion ensued regarding bond and sentencing issues related to immigration status. Concern was raised that bond may be set and sentences determined in part by an individual's immigration status. Judge Gold pointed out that an individual's tie to the community is one of the areas that judges are required to evaluate in setting a bond. Mr. Carbone explained the bond process and will provide the committee with the questionnaire that bail commissioners follow and their statutory requirements. Professor Wishnie will research the issue of what other states are doing when bail commissioners learn of the legal status of an individual.

8. A discussion ensued regarding Connecticut General Statutes § 54-1j, entitled "Ascertainment that defendant understands possible immigration and naturalization consequences of guilty or nolo contendere plea." Attorney Villa explained that the Public Defenders Division submitted proposed legislation last session seeking to extend the period of time that a defendant can challenge a plea if the court does not determine that the defendant understands the immigration and naturalization consequences of the plea from the current three year period to ten years. The committee will look into this issue at a future meeting.

9. Justice Katz asked Mr. Carbon to provide the Committee with any written directives from the federal government regarding the relationship between state agencies and ICE.

10. The next committee meeting is scheduled for February 1, 2010 at 2:00 in the Supreme Court attorney conference room, located at 231 Capitol Avenue in Hartford.

The meeting was adjourned at 3:55 PM