

February 7, 2008

**STATEMENT OF CPCS CHIEF COUNSEL WILLIAM J. LEAHY
IN SUPPORT OF S. 999 AND S. 868**

The Committee for Public Counsel Services (CPCS) strongly supports this legislation, the enactment of which would implement the hourly rate increases for assigned private counsel recommended in 2005 by the Commission to Study the Provision of Counsel to Indigent Persons in Massachusetts (the Rogers Commission). Senator s Panagiotakos and Creedon and their fellow sponsors deserve our thanks and praise for insisting that the hourly rate structure which was endorsed unanimously by the nine Commission members be honored. After all, it was this Commission's report, in the aftermath of the historic right -to-counsel decision in *Lavallee v. Justices in the Hampden Superior Court*, 442 Mass. 228 (2004), which led directly to the hourly rate increases achieved by the enactment of Chapter 54 in July, 2005, and restored stability to the provision of counsel for the indigent in Massachusetts.

The hourly rates of compensation set by this legislation are modest. They range from \$55 per hour for the majority of CPCS cases, to \$60 for Care and Protection cases, to \$70 for Superior Court cases, to \$110 for murder cases only. They are lower than the rates of \$60, \$90 and \$120 which were set by CPCS over five years ago, in December, 2002, following a six-month comparison of comparable rates in other jurisdictions, pursuant to its authority under G.L. c.211D, §11 to "establish rates of compensation payable, subject to appropriation, to all counsel who are appointed or assigned to represent indigents within the private counsel division...."

Enactment of this legislation would honor both the critical public service performed by the members of the Rogers Commission, and the essential public responsibility which is fulfilled by every member of the private bar who agrees to and is qualified to represent indigent clients under the standards set by CPCS. In urging enactment of this legislation, I can do no more than

repeat the words I used nine years ago, in 1999, when I testified in support of a similar bill to increase inadequate hourly rates for private counsel:

The lawyers who represent indigent CPCS clients perform a genuine public service. They absorb their own overhead. They are restricted to an annual billing limit of no more than 1,800 hours.... They are required to observe CPCS Performance Standards which are the most comprehensive in the nation. Their every case, be it civil or criminal, involves a client in peril as a result of concerted state action. The simple truth is that they deserve a significantly higher level of compensation for the vital service which they perform.

Please support the right to counsel by approving this legislation.