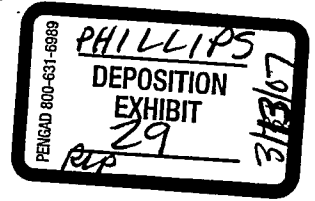


Rosenthal, Dave (OCC)

From: Rosenthal, Dave (OCC)
Sent: Tuesday, September 17, 2002 10:55 AM
To: Phillips, Mary (OCC); Rubenstein, David (OCC); Gallun, Eric (OCC); Zirpoli, Andy (OCC)
Cc: Teal, Arabella (OCC)
Subject: FW: Naming of Acting Section Chief and Possibly Acting Trial Supervisor
Importance: High



Thank you for your interest in one of the acting positions that may be open.

Please submit an informal memo to me that responds to each of the selection factors indicated below. The response does not have to be exhaustive but it should demonstrate your experience as to each of the factors in your category.

For example:

1. Give a list of a few of the serious felonies that you have litigated and a blurb about the issues that came up in those cases and how they were handled.
2. Give a list of the types of pleadings that you reviewed for others including the attorneys assisted and the issues raised in their pleadings and how you assisted them.

Please give me three writing samples. These writing samples should demonstrate the required knowledge requirements that show a knowledge of Title 16-2301, et seq. and 4th 5th, and 6th amendment law.

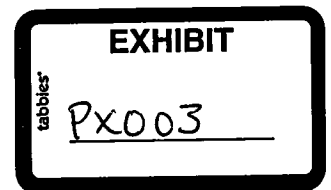
Please submit these items by September 18.

ve

Dave Rosenthal
Acting Deputy, Criminal Division
Office of the Corporation Counsel
727-6277

-----Original Message-----

From: Rosenthal, Dave (OCC)
Sent: Friday, September 13, 2002 11:21 AM
To: Juvenile (OCC)
Cc: Teal, Arabella (OCC)
Subject: Naming of Acting Section Chief and Possibly Acting Trial Supervisor
Importance: High



With Tom leaving the Office we will be naming an Acting Section Chief and possibly an Acting Trial Supervisor. Anyone who is interested in being considered for either of these positions should review the following requirements and email me by close of business on September 16. The email should only state which position you would like to be considered for.

If interested in either of these positions, please be prepared to discuss in detail how your experience matches with the requirements listed below.

Acting Chief of the Juvenile Section

1. Experience litigating serious felony cases.
2. Demonstrated knowledge of the Juvenile Section Policy and Procedures, including the Section's Standard Operating Procedures.
3. Excellent writing skills (be prepared to submit three examples, if requested)
4. Demonstrated ability to review and make constructive criticism to other peoples draft pleadings.

5. Demonstrated ability to quickly complete complex legal research, including working knowledge of LEXIS.
6. In depth knowledge of Title 16-2301, et. seq., the Juvenile Rules, and Supreme Court and appellate court decisions interpreting them.
7. In depth knowledge of 4th, 5th, 6th, amendment law and ability to explain the legal concepts contained therein, citing case law.

Acting Trial Supervisor

1. Experience litigating serious felony cases and willingness to litigate serious felony cases and juvenile transfer cases.
2. Demonstrated knowledge of the Juvenile Section Policy and Procedures, including the Section's Standard Operating Procedures.
3. Demonstrated ability to quickly complete complex legal research, including working knowledge of LEXIS.
4. Demonstrated ability to write clearly, logically, and persuasively, under time pressure (be prepared to submit three examples, if requested).
8. Working knowledge of Title 16-2301, et. seq the Juvenile Rules, and Supreme Court and appellate court decisions interpreting them.
9. Working knowledge of 4th, 5th, 6th, amendment law and ability to explain the legal concepts contained therein, citing case law.
10. Demonstrated interest in attorney training.
11. Ability to assist attorneys with trial preparation including developing of trial strategies and answering questions of law and procedure and admissibility of evidence.
12. Ability to assist attorneys in court with litigating their cases. This may include first or second chairing .e attorney or observing the attorney and making constructive criticism at appropriate times.

Thanks

Dave

Dave Rosenthal
Acting Deputy, Criminal Division
Office of the Corporation Counsel
727-6277

Rosenthal, Dave (OCC)

From: Rosenthal, Dave (OCC)
Sent: Wednesday, September 18, 2002 1:42 PM
To: Phillips, Mary (OCC)
Cc: Teal, Arabella (OCC)
Subject: RE: Naming of Acting Section Chief and Possibly Acting Trial Supervisor

Please forward any three writing samples for review.

Thanks

Dave

Dave Rosenthal
Acting Deputy, Criminal Division
Office of the Corporation Counsel
727-6277

-----Original Message-----

From: Phillips, Mary (OCC)
Sent: Wednesday, September 18, 2002 11:11 AM
To: Rosenthal, Dave (OCC)
Cc: Teal, Arabella (OCC)
Subject: RE: Naming of Acting Section Chief and Possibly Acting Trial Supervisor

Dave,

As you are aware, I have been representing YSA for the past 4 1/2 years and therefore have not litigated any felonies since assuming the role as YSA's attorney nor submitted any pleadings involving the 4th, 5th and 6th Amendments. By the nature of my position, I only litigate matters involving YSA and that is almost exclusively defensive litigation. During my tenure as YSA's counsel, I have prevailed in virtually every Show Cause Order issued against the agency. Additionally, I have been able to avoid having other Orders to Show Cause issued by working closely with defense attorneys and prevailing upon them to refrain from filing Motions for Contempt in numerous situations. I have functioned in a manner so as to mediate and calm tensions and had tremendous success with this approach, where everyone, particularly the child, wins. Using this approach, I began putting together multi-agency teams to evaluate particularly difficult cases. As a result I have been able to resolve the cases with very sensitive and sensible solutions. In virtually every case, the courts have been extremely receptive and thanked me for all of my efforts. Significantly, when presented with our plans, the judges, without fail, have adopted our proposed plans. This serves the child, YSA, the defense, the court and our office well. During the past six months and in a more structured and formal capacity, I have represented OCC at the Mayor's mandated MAPT meetings, retreats and Training Institutes.

Prior to my representation of YSA, I litigated countless very serious felony cases. I was one of only two trial attorneys assigned to a straight trial calendar and litigated cases daily. As a senior attorney, I was assigned the most serious felonies. Despite the fast-paced and very stressful assignment, I had a conviction rate of 42 cases out of 45 tried in a single nine month period as well as 101 guilty pleas during that same period of time. On a single day, I obtained 8 adjudications. These adjudications consisted of one conviction at trial and 7 pleas. The pleas included a plea to Assault with Intent to Kill in a case in which the respondent was accused of stabbing an ex-girlfriend in the stomach twice, causing major and permanent injuries. As my supervisors recognized in my evaluations, I am "a highly motivated and dedicated prosecutor who welcomes difficult and challenging cases and volunteered on numerous occasions to step in at a moment's notice to try cases on behalf of her colleagues". They further stated: "Ms Phillips eagerly volunteered for this assignment and has demonstrated that she is more than capable of meeting and exceeding the expectations that go along with this fast-paced and very stressful assignment" and that my performance was "commendable".

I was also the first attorney in the office to be assigned to handle all of the sexual assault cases and have maintained relationships with some of the victims and their families, connecting them with services in the community and assisting them with other areas of their lives that have changed as a consequence of the attacks. One in particular is the 17 year old virgin who was brutally raped and who developed spinal meningitis as a consequence of the attack. As a result of the meningitis, she became critically ill and she is now deaf. I have assisted her mother in getting housing (away from the perpetrator), getting her a telephone equipped for the hearing impaired, locating a program for the victim to get job skills training, therapy and to learn sign language.

I also was able to get a detective certified as an expert witness in a case where it had never been done before and

rubenstein		Last Name		HR		954	
EMPLOYMENT INFORMATION				JOB INFORMATION			
Last Name	Rubenstein	Hire Dt	01/05/98	Job Series	DS 905	Job Series	
First Name	David	Service Dt	01/05/98	Acct	1650	Code Division	
Middle	M	LEI Dt	03/09/03	CBU	XAA	Service	A33
Birth Dt	05/22/67	L/Promotion Dt	03/09/03	Pay Sch		Pay/Sched	
SF	151669434	StepInc Dt	03/10/02	Type Appt	Legal Serv	Type Appt	
St.	1314 R Street NW	Due	3/6/04	NTE Dt			
Apt		L/Qual/StepDt	10/07/01	Discipline	0	Documents	
City	Washington	L/Cash Award Dt		FT/PT	FT	RespCtr	CB 0111
State	DC	Resignation Dt		Hrs	80	OfcCode	1000
Zip	20009/4323	Reason Res		Office	Office of the Corporation Counsel		
Hm Phone		New Employer		Division	Public Safety Division		
Marital	Single	Term-tion Dt		Section	Juvenile		
M/F	Male	Reason Term-tion		ImSuperv	Robert Spagno	Superv	
Ethnic	Caucasian	Active	Ye	O/Phone	202-727-4750	Room	4N04
EMERGENCY CONTACT INFORMATION				Ofc Title	Supvy Trial Attorney		
Name1	Howard Rubenstein	Name2	Irwin Rubenstein	Org Title	Deputy Corporation Counsel		
Relationship	Brother	Relationship2	Father				
HmPhone	770/682/7843	Phone	770/513/8772				
OfcPhone		Phone2					
Other		Other					
SALARY INFORMATION				MOVE/TRANSFER INFORMATION			
Budg Grade		Cur/Grade	15	Transfer Dt			
Base Sal	68395	Cur/Step	01	Transfer From		To	
Prev Grade	14	Fund		Rotation Dt			
Prev B/Sal	66296	Total Sal	83830	Rotation From		To	
		UPPS	0018230/	Effective Dt			
		Prev Sal	79943	Detail From	Trial Att	To	Acting Chief
				Expiration Dt			07/06/03
1) Last Name = Rubenstein				Sub	13	F5	Hi

EXHIBIT

tabbles
PX003A

vricos

Last Name HR 1139

Last Name	Vricos
First Name	James
Middle	H
Birth Dt	08/15/67
SSN	113524184
1931 N. Cleveland Street	
#203	
City	Arlington
State	VA
Zip	22201-4115
Hm Phone	703-248-8752
Marital	
M/F	Male
Ethnic	Caucasian

EMPLOYMENT INFORMATION	
Hire Dt	03/25/02
Service Dt	03/25/02
LEI Dt	05/18/03
Promotion Dt	05/18/03
Step Inc Dt	Due 05/16/04
Qual/Step Dt	
Cash Award Dt	
Resignation Dt	
Reason Res	
New Employer	
Term Ion Dt	
Reason Term Ion	
Active	Ye
Union	AFGE
History	SF

JOB INFORMATION		
Job Series	DS 905	Job Series
Acct	1650	Code Division
CBU	BOA	Service
Pay Sch		Pay/Sched
Type Appt	Term	Type Appt
NTE Dt	04/24/05	
Discipline	0	Documents
FT/PT	FT	Resp Ctr
Hrs	80	Ofc Code
Office	Office of the Corporation Counsel	
Division	Public Safety Division	
Section	Juvenile	
Im Superv	Laura Dailey	Superv
O/Phone	202-727-6303	Room
Ofcl Title	Trial Attorney	
Org Title		

EMERGENCY CONTACT INFORMATION			
Name 1		Name 2	
Relationship	Relationship	Relationship 2	Relationship
Hm Phone		Phone	
O/c Phone		Phone 2	
Other		Other	

MOVE/TRANSFER INFORMATION	
Transfer Dt	
Transfer From	To
Rotation Dt	
Rotation From	To
Effective Dt	
Detail From	To
Expiration Dt	

SALARY INFORMATION			
Budg Grade	Budg Step	Fund	Fund
Base Sal	ARA Amnt	Total Sal	
Prev Grade	Prev Step	UPPS	
Prev B/Sal	Prev ARA	Prev Sal	

1) Last Name = Vricos

Sub: 0 F5 Hi

Last Name	Zirpoli	EMPLOYMENT INFORMATION	
FirstName	Andrew	Hire Dt	07/20/98
Middle	D	Service Dt	07/20/98
Birth Dt	05/08/64	LEI Dt	10/06/02
SSN	121601182	L/Promotion Dt	10/07/01
Street	666 E Street NE	StepInc Dt	10/06/02
		Due	10/02/04
		L/Qual/StepDt	
City	Washington	L/Cash Award Dt	
State	DC	Resignation Dt	
Zip	20002/5230	Reason Res	
Hm Phone		New Employer	
Marital		Term-tion Dt	
M/F	Male	Reason Term-tion	
Ethnic	Caucasion	Active	Ye
	Group	Union	AFGE
		History	SF

Last Name	JOB INFORMATION	
Job Series	DS 905	Job Series
Acct	1650	Code Division
CBU	BOA	Service
Pay Sch		A33
Type Appt	Legal Serv	Pay/Sched
		Type Appt
NTE Dt		
Discipline	0	Documents
F/J/P/T	FT	Resp Ctr
Hrs	80	Ofc Code
Office	Office of the Corporation Counsel	
Division	Public Safety Division	
Section	Juvenile	
ImSuperv	Laura Dailey	Superv
O/Phone	202-727-6341	Room
Ofc Title	Trial Attorney	
Org Title		

EMERGENCY CONTACT INFORMATION			
Name 1	Michael Souders	Name 2	
Relationship		Relationship 2	
Hm Phone	202/548/8077	Phone	
Ofc Phone	703/307/9115 Ext	Phone 2	
Other		Other	

MOVE/TRANSFER INFORMATION	
Transfer Dt	
Transfer From	To
Rotation Dt	
Rotation From	To
Effective Dt	
Detail From	To
Expiration Dt	
Sub	0

SALARY INFORMATION			
Cur/Grade	14	Cur/Step	04
Budg Grade		Budg Step	
Base Sal	66296	ARA Amnt	13647
Prev Grade	14	Prev Step	03
Prev B/Sal	64355	Prev ARA	13647
Fund		Total Sal	79943
		UPPS	0018246
		Prev Sal	78002

gallun

Last Name

HR 776

Last Name	Gallun
FirstName	Frederic
Middle	P
Birth Dt	02/17/71
SSN	216944023
Address	9416 Spring House Lane
City	Laurel
State	MD
Zip	20708/3279
Hm Phone	
Marital	Married
M/F	Male
Ethnic	Caucasian

EMPLOYMENT INFORMATION

Hire Dt	09/28/98
Service Dt	05/01/98
LEI Dt	01/12/03
L/Promotion Dt	10/08/00
Step Inc Dt	01/12/03
Due	01/10/04
L/Cash Award Dt	
Resignation Dt	04/18/03
Reason Res	
New Employer	Us Attorney's Of
Term-tion Dt	
Reason Term-tion	
Active	No
Union	AFGE
History	SF

JOB INFORMATION

Job Series	DS 905
Acct	1650
CBU	BOA
Pay Sch	
Type Appt	Legal Serv
NTE Dt	
Discipline	0
FI/PT	FT
Hrs	80
Office	Office of Public Protection and Enfor
Division	Criminal Division
Section	Juvenile
ImSuperv	David Rubenst
O/Phone	727-6347
Ofcl Title	Trial Attorney
Org Title	

EMERGENCY CONTACT INFORMATION

Name 1	Sara Rosen
Relationship	Wife
HmPhone	301/362/9178
OfclPhone	301/452/9403
Other	
Name 2	Jerry Gallun
Relationship2	Father
Phone	301/977/9515
Phone2	202/606/5000
Other	

MOVE/TRANSFER INFORMATION

Transfer Dt	
Transfer From	To
Rotation Dt	
Rotation From	To
Effective Dt	
Detail From	To
Expiration Dt	

SALARY INFORMATION

Cur/Grade	13
Cur/Step	03
Budg Grade	
Base Sal	54456
Prev Grade	13
Prev B/Sal	52814
ARA Amnt	11548
Prev Step	02
Prev ARA	11548
Total Sal	66005
UPPS	0018262
Prev Sal	64362

1) Last Name = Gallun

Sub: 0

F5: Hi

Phillips

Last Name: Phillips

First Name: Mary

Middle: V

Birth Dt: 08/15/52

SSN: 579726028

Address: 1101 Mass. Ave., NW #410

City: Washington City

State: DC

Zip: 20005

Home Phone: []

Marital: [] Status: []

WF: Female Gender

Ethnic: Caucasian Group

Active: Yes Union: AFGE History: SF

EMERGENCY CONTACT INFORMATION

Name1: [] Name2: []

Relationship: [] Relationship2: []

Home Phone: [] Phone: []

Office Phone: [] Phone2: []

Other: [] Other: []

SALARY INFORMATION

Cur Grade	14	Cur Step	04
Budg Grade		Budg Step	
Base Sal	66296	ARA Amnt	10236
Prev Grade	14	Prev Step	03
Prev B/Sal	61880	Prev ARA	13122
		Total Sal	76532
		UPPS	0018244
		Prev Sal	75002

HR 923

JOB INFORMATION

Job Series: DS 905

Acct: 1650

Code Division: []

CBU: BQA Service: A31

Pay Sch: []

Pay/Sched: []

Type Appt: Legal Serv

NTE Dt: []

Discipline: 5 Documents: []

FT/PT: FT

Hrs: 80

Ofc Code: 1000

Office: Office of the Corporation Counsel

Division: Public Safety Division

Section: Juvenile

ImSuperv: Laura Dailey Superv

O/Phone: [] Room: []

Ofc Title: Trial Attorney

Org Title: []

MOVE/TRANSFER INFORMATION

Transfer Dt: []

Transfer From: [] To: []

Rotation Dt: []

Rotation From: [] To: []

Effective Dt: []

Detail From: OCC To: DMH

Expiration Dt: 05/22/03

Sub: 0 F5: Hi

1) Last Name = Phillips

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Corporation Counsel



Criminal Division



MEMORANDUM

TO: Arabella W. Teal
Interim Corporation Counsel

Eugene Adams
Acting Principal Deputy

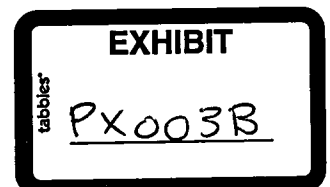
FROM: Dave Rosenthal
Acting Chief of the Criminal Division

DATE: October 1, 2002

SUBJECT: Designation of David Rubenstein as the Juvenile Section
Acting Section Chief

On September 13, 2002, I sent an email to the Juvenile Section. I requested that anyone who wanted to be considered as Acting Section Chief contact me. I stated that those interested should be prepared to discuss in detail how their experience matches the following requirements:

1. Experience litigating serious felony cases.
2. Demonstrated knowledge of the Juvenile Section Policy and Procedures, including the Section's Standard Operating Procedures.
3. Excellent writing skills (be prepared to submit three examples, if requested)
4. Demonstrated ability to review and make constructive criticism to other peoples draft pleadings.
5. Demonstrated ability to quickly complete complex legal research, including working knowledge of LEXIS.
6. In depth knowledge of Title 16-2301, et. seq., the Juvenile Rules, and Supreme Court and appellate court decisions interpreting them.
7. In depth knowledge of 4th, 5th, 6th, amendment law and ability to explain the legal concepts contained therein, citing case law.



David Rubenstein and Mary Phillips asked to be considered for this position¹. On September 17, 2002, I sent an email to Mary Phillips and David Rubenstein thanking them for their interest in the position. I asked them to submit an informal memo to me that responded to each of the selection factors listed above. I stated that the response did not have to be exhaustive but it should demonstrate their experience as to each of the factors previously listed. In addition, I asked them to give me three writing samples. I requested that the writing samples demonstrate a knowledge of Title 16-2301, et seq, and 4th 5th, and 6th amendment law. Finally, I asked that these pleadings submitted by September 18.²

I gave the pleadings to Chuck Reischel and asked him to review them. As to Mary Phillips' writing samples, Mr. Reischel stated "A skeletal piece, barely adequate in my view for the task at hand. B-/C+" As to Mr. Rubenstein, he stated, "Good discussion of what documents are discoverable, and of PDS's conflict. B+/A-"

Mr. Rubenstein's submission addressed each of the factors stated above. The submission demonstrated that he had extensive experience litigating serious felony cases. He showed a demonstrated knowledge of the Juvenile Section Policy and Procedures, including the Section's Standard Operating Procedures. Mr. Rubenstein also demonstrated his ability to review and make constructive criticism to other peoples draft pleadings. He accurately stated that he not only regularly reviews the pleadings of attorneys in the Juvenile Section, but, during his first three years in the Office he served as an adjunct professor of legal research and writing at American University. No doubt that this experience helps Mr. Rubenstein in both his ability to assist others with their pleadings but also with his own writing skills. Mr. Rubenstein's submission demonstrated his ability to quickly complete complex legal research, including working knowledge of LEXIS. He is intimately familiar with the nuances of online LEXIS research. He states that it is routine for him to begin a research project and then continue it online from his home via LEXIS. Mr. Rubenstein's submission shows that he has an in depth knowledge of Title 16-2301, et. seq., the Juvenile Rules, and Supreme Court and appellate court decisions interpreting them. He cites examples where he utilized this knowledge in training Magistrate Judges or in fashioning novel legal arguments. Finally, Mr. Rubenstein's submission showed that he has an in depth knowledge of 4th, 5th, 6th, amendment law. He cites to numerous examples of his knowledge in this area.

Ms. Phillips' submission did not address each of the factors requested above. She started her submission by acknowledging that because of her position in the YSA Unit for the past 4 ½ years, she has not litigated any felonies nor submitted any pleadings involving the 4th, 5th, and 6th Amendments during that time. She does list felony cases that she litigated prior to her YSA assignment and shows that she had an impressive trial conviction rate. However, she failed to address the factor about how she has an in-depth knowledge of 4th, 5th, 6th, amendment law. Ms. Phillips submission failed to state anything about her knowledge of Juvenile Section policy or procedures or about her knowledge about the Section's SOP. As to the 4th factor, Ms. Phillips states that she "has not been given the opportunity to review the pleadings of others. Other than those that I have done on my own with the other YSA attorneys." Ms. Phillips submission fails

¹The email also solicited people who were interested in being considered for the Acting Trial Supervisor Position. Initially, Fredrick Gallun and Andrew Zirpoli asked to be considered for that position. Mr. Zirpoli later asked that his name be withdrawn.

² I extended the deadline for submission of the pleadings for a few days after having received a request from Mary Phillips.

to state anything about her ability to quickly complete complex legal research. She does not mention LEXIS in her submission. While Ms. Phillips' submission states that she "is regularly asked to participate in panels of lawyers and judges and to be a presenter in seminars," her submission does not address the factor that an applicant demonstrate an in depth knowledge of Title 16-2301, et. seq., the Juvenile Rules, and Supreme Court and appellate court decisions interpreting them.

I reviewed the submissions provided by each candidate and considered Chuck Reischel's comments about the written work. Based upon this review, I am recommending that David Rubenstein be named as the Acting Chief of the Juvenile Section.³

³ Should David Rubenstein be named as the Acting Chief of the Juvenile Section, he would vacate his current position as Acting Trial Supervisor. Should this occur I would recommend that Fredric (Eric) Gallun be named as the Acting Trial Supervisor. At this point he is the only person in the Juvenile Section who has applied for this grant funded position. His submissions shows that he has the necessary qualifications for this position.