

STATE BAR OF MICHIGAN
PRISONS & CORRECTIONS SECTION COUNCIL MEETING MINUTES
MSU College of Law
Shaw Avenue
East Lansing 48823
January 12, 2019

Present: Keith Barber, John Cooper, Dan Manville, Mike Marutiak, Michelle VanDusen, Korbin Felder, Nicole George, Steve Gobbo, Marilena David-Martin, David Gilbert and Ron Emery

Excused Absences: Sandy Girard, Barb Levine, Pat Streeter, Kyle Kaminski, Kevin Harris, Gary Kasenow, and Carol Siemon

Unexcused Absences: None

Guests: Kathleen Schaefer and Robyn Frankel

Chairperson Mike Marutiak called the meeting to order at 10:16AM

1. Attendances and Welcome:

A quorum of 9 voting members was present.

2. Adoption of Agenda:

The Chair corrected one item and added to another item to the Agenda as follows: 1) item number 11 deals with “public” hearings, not parole violation hearings, and 2) item number 12 will concern the dates for both February and March meetings. The agenda as revised was adopted unanimously.

3. Approval of April Minutes:

Two typos were corrected in Section 6.5 on page two. On motion by Dan Manville, seconded by Korbin Felder, the December minutes were unanimously approved as corrected.

4. Treasurer’s Report

Treasurer Dan Manville reported that he had not received the current bank statement from the State Bar but confirmed that our current balance is still historically high. The only expenses to reduce that balance would be the food expense from the December meeting. Dues are expected over the next few months from our current year membership of 120, which is about 20 below our average for the last couple of years.

5. Comments from the Chair

A. Mike complimented Pat Streeter on a fine job in putting together the Fall Section Newsletter. Korbin queried whether the newsletters are available to the

inmates in the prison libraries. Both Keith Barber and Dan Manville confirmed that they were available as they are sent to each facility.

B. Mike reported that at the Council's encouragement, the section had purchased 300 pens with the section name on it to distribute to increase interest and awareness of the section. The cost was \$150.

C. Mike reminded all that the Criminal Law section conference will take place on February 16 and 17, 2019 at the Soaring Eagle in Mt. Pleasant. New AG Dana Nessel will attend and will speak. The general topic will be all things marijuana.

6. MDOC Updates

In Kyle's absence, Mike reported on the following topics from an e-mail Kyle had sent:

A. The transition in administration has not rendered any changes so far as Heidi Washington continues as Director and the current deputy directors continue. Several administrators and parole board members have retired.

B. The lame duck session of the legislature failed to enact legislation to raise the age of adult criminal liability above 17 or provide for medical parole. On the other hand, the bill clarifying the Ombudsman's authority did pass and was signed into law. Keith Barber will report on this below.

C. Prison population over the year fell 3% to 38,761.

D. Governor Snyder issued multiple pardons and commutations. A list of those receiving them was available on line. All granted pardons and commutation will be released by early February.

E. MDOC awaits Governor Whitmer's criminal justice plan for 2019. The focus will include safe reduction in prison population and improved inmate programs.

7. HB 6397 Public Act 571 update

Keith Barber reported the passage of this legislation that clarified some of his office's authority to investigate and provides certain protections from subpoenas and FOIA requests for the information. The catalyst for this legislation was a 2014 incident in which the MDOC director attempted to interfere with Keith's attempt to investigate a prison escape. The legislation allows the ombudsman to 1) interview MDOC employees, 2) have access to MDOC documents and contractors (particularly medical providers who are the most frequent source of complaints to his office), 3) have access to the "think tank" or command center during a crisis, 4) exempted his office investigative records from FOIA requests and subpoenas, and 5) protects inmates from retaliation if they provide information during an investigation.

8. Observations and Reflections on Penology in Germany and Norway

Keith Barber then reported on his weeklong tour of German and Norwegian prisons through the VERA Institute of Justice. Andy Potter from the Michigan Corrections Organization accompanied Keith on the tour. The tour was made up of a collection of 38 criminal justice officials from around the US who spanned the ideological spectrum of penology from progressive thinkers to those with more

traditional views. Keith reported that during the course of the week frequent informal exchange of ideas changed the outlook of many of the participants.

Keith perceived major philosophical differences between European and US criminal justice officials. The Europeans treat prisoners more humanely while in prison, allow inmates more opportunities for family contact, use fines and financial sanctions for property crimes rather than incarceration, and view prisons as a punishment of last resort. He also noted that corrections officers are given substantially more training (i.e. 2 years) than US officers. They are also given more training on how to interact with and defuse conflict and confrontation with inmates. There also appeared to be a different dynamic in the relationship between inmates and officers with the latter having more casual contact.

They visited both German and Norwegian prisons. The latter prison was large, new, and took on the aura of a college campus with an open concept where inmates have their own individual cells, telephones, and even keys to their own cells. Both prison populations were less homogenous than he anticipated and included a large percentage of non-European born citizens incarcerated. Keith will prepare a power point presentation with plenty of photographs to summarize the tour and the concepts that he learned.

9. Discussion of June program ideas

Marilena David-Martin reported that her committee had met and decided that the topic of the June program will be trauma's impact on incarcerations rates. The title so far is "Entry point for Trauma Care. The program will be held Saturday, June 1, 2019. Her committee hopes to have an agenda and confirmed speakers by our March meeting. They hope to recruit a nationally recognized speaker to attract a crowd for the program.

10. Past Policy Positions

Because of both Pat Streeter's and Barb Levin's absence, Mike tabled this topic until next month and asked everyone to review the material that Barb had prepared for the meeting today.

11. Comments re: Public Parole Hearing

Kathleen Schaefer, a retired MDOC employee and Robyn Frankel, a retired ex-SADO lawyer asked to make a presentation before the council. Both currently work as consultants for prospective parolees to help them achieve parole. They described a public hearing they attended last November that they felt was really unfair and were concerned that this unfairness is now a standard practice before the parole board. They would like to see some changes made to the process to ensure a more fair process. They had two major complaints at the November hearing. First, they were denied the opportunity to meet with and discuss the hearing with their client in advance of its start. In contrast, the county prosecutor and relatives of the victim could meet the Assistant Attorney General ahead of time. This denial of access to the inmate they felt prejudiced their clients arguments in the hearing.

Second, the opponents of granting parole (the prosecutor, chief investigator, and victim) were allowed to speak for an unlimited time, while proponents of release, including Frankel, were limited to just three minutes like every other speaker was required to do. Although their client was denied parole at the hearing, their big concern was the apparent lack of fairness in the hearing process. They presented a copy of their letter to the MDOC complaining of this to the council, as well as the cryptic response from the MDOC.

Mike explained that the issue of the procedure for public hearings was a matter of past concern for the section and would likely be part of the discussion of our past policy position regarding the Parole and Commutation Process. There concerns would fit within the subject matter of this 2011 position statement. Mss. Schaefer and Frankel would be willing to come back to participate in those discussions when they take place if asked.

12. Next Meetings

The consensus was that the next meeting should be kept on the first Saturday of February. The March meeting will be moved back a week to March 9th because both Mike and Marilena will be unavailable on March 2nd. That meeting will take place in the boardroom on the 3rd Floor of the MSU College of Law, since the State Bar will be unavailable on that day.

13. Adjournment

On motion by Ron Emery, seconded by Steve Gobbo, the meeting was unanimously adjourned at 12:37PM. The next meeting is scheduled for Saturday, February 2nd, at 10 AM at the State Bar Building.

Respectfully Submitted,

/S/

Ron Emery
February 2, 2019