

State Bar of Michigan  
*Prisons & Corrections Section Council Meeting Minutes*  
*State Bar Building*  
*Lansing, MI*  
*October 6, 2018*

**1. Attendances and Welcome:**

Present: Sandy Girard, Mike Marutiak, Barb Levine, Korbin Felder, Kyle Kaminski, John Cooper, Carol Siemon, Dan Manville, Steve Gobbo

Excused Absent: Pat Streeter, Ron Emery, David Gilbert, Nicole George, Keith Barber, Michelle Van Dusen, Marilena David-Martin

Unexcused Absent: Gary Kasenow

Guest: Monica Jahner

**2. Chairperson's Remarks**

Upon beginning the meeting, Mike announced that we were one person short of a quorum so this would be an informational meeting, due to the inability to vote without a quorum of eight voting members. It was then noted that although Sandy's term as the Chairperson as ended she is still a council member with another year on an elected term. A quorum was then established (our meeting quorum presently being 8 voting members).

Introductions of members, including two "newly" elected members – Dan Manville & Steve Gobbo. The council lost a few members including Monica Jahner (who attended as a guest), Judge Shapiro, and Jacqueline Ouvry. Ryan Zemke is the commissioner liaison. He will try to make some of the council meetings. He serves as a magistrate.

Mike expressed that he will not bring his own agenda to the council but rather will bring to the council what the state Bar and legislature present and will ask the council for meeting agenda items.

**3. Adoption of Agenda and additions**

There were originally two agenda topics for October meeting:

- New MDOC director and transition team
- How to make use of the position statements the council creates

Dan voiced that he would like to add a discussion about Hepatitis C treatment within MDOC to the agenda. Dan reports he is receiving a lot of letters and requests from incarcerated people concerning Hep C treatment.

Steve Gobbo motioned to accept the revised agenda. Carol and John seconded. Adopted as revised unanimously.

#### **4. Approval of May minutes and Annual Meeting Minutes**

##### *a. May Minutes*

Barb voiced concerns with the accuracy of the May minutes concerning the “Parole Decisions Standards Bill” (HB 5377). John confirmed that the summary was not accurate, but would propose a revision. John made revisions to the first paragraph in the May minutes regarding the bill. The first paragraph now should read:

“John reported that the bill was reported out of committee in April. The bill had been negotiated between PAAM and MDOC. Three changes were made; 1) **Certain specific** impermissible reasons to deny were excluded, 2) **A negative** psych evaluation was **added**, 3) lack of an adequate **parole** plan was also added. These only apply to offenders with a high probability of risk.”

John proposed a motion to adopt the May minutes with revisions. Carol seconded. Adopted unanimously.

##### *b. Annual Meeting Minutes*

Barb motioned to receive the annual meeting minutes. John seconds. Annual meeting minutes unanimously approved.

#### **5. Appointments of Secretary and Treasurer for 2018-2019 year**

Mike reported that Ron is willing to serve as the secretary for another year. Pat who has served as treasurer before is willing to serve again but she would prefer not to. The council has to appoint both of these positions. Mike inquired if any council members would like to serve as secretary. Nobody indicates that they would like to serve as Secretary. Consensus is that Ron will remain council Secretary.

Dan Manville said that he is willing to serve as treasurer again this upcoming year. Mike will inform Pat and the Bar that Dan will take over as treasurer this year.

#### **6. Discussion for open Associate Council Member seat**

Mike informed the council that there is one associate council member seat available. The council had a brief discussion regarding the one open associate position. Sandy mentions Mr. Mark Brown as an option and gave an overview of his background. Barb suggested Mr. Jim Dankovich, an advocate who is involved with several organizations. Korbin suggested that we seek out a formerly incarcerated person. Sandy suggests that the council should try to get a person of color to help diversify the council. Korbin suggested reaching out to contacts with Nation Outside, a group of formerly incarcerated people.

Mike suggested that for the November agenda, interested council members should submit a name of a potential associate council member along with a 1-2 paragraph biography on the person, and the council will vote on the position at the November meeting. Barb suggests that the council votes for the associate position via email before the November meeting, so hopefully a new associate member can be present for the November meeting. Council members should reach out to potentially interested persons and email the council prior to the November meeting. Mike stressed that a nomination is to also be confirmation that the nominee was informed of our meeting schedule, our expectations of council members, and acceptance of the position if offered.

## **7. Council Meeting Schedule for 2018-2019 year**

Mike informs the council that the Bar is only open the first and third Saturdays of the month, and inquired if meetings on the first Saturday of the month still works best. Nobody articulated any issue with meeting on the first Saturday of the month.

There was an error on the proposed schedule, the 11/3/18 meeting was not included. 11/3/18 will be the next council meeting.

## **8. Chairperson elect**

By the December meeting, Mike would like for the council to choose a chair person elect who can then serve with him for the remainder of the council year. Those who were unable to attend today's meeting will be informed by email of this need. It is not necessary but is suggested that anyone interested contact Mike before the November meeting.

## **9. Updates / Discussion**

### **a. Ojibway closure**

Kyle reports that OCF only has about 400 prisoners right now from an updated count the day before. More than half the prisoners have been moved out. There is pending litigation. The county which houses the prison is suing MDOC claiming a due process violation that they are depriving them of the economic benefit of the facility without public hearings. It is pending in the court of claims. The department is confident they will be successful and are moving forward with a Dec. 1 closure date. Other state agencies are working to address economic concerns within that county. The state already has their regional plan trying to assist the Western UP.

### **b. Presumptive Parole**

John reports that the Presumptive Parole bill passed out of senate 31-4 and was signed by governor early. The effective date is Dec. 12, 2018. The bill is only for individuals who committed the offense after the effective date. The question is whether the MDOC apply it to only the new cases or will it become the new

standard. Kyle reports that MDOC thinks over time they will just have single standard consistent with the law.

**c. Ban the Box**

John updates that Governor Snyder recently removed the box asking about felony status from State jobs along as removing it from the state licensing conditions. Although, it does appear for licensure for certain jobs. These are the positions which fall under the “good moral character” law. It passed almost unanimously the vote was 106-1.

Dan Manville questioned the impact since the legislature previously voted to prohibit localities from “banning the box.” It was explained that the governor and the legislature are essentially working the edge around state jobs and licensure. They are trying to show that you can remove the box without having to “Ban the Box” at the state level, but not localities. John reports that the business community is still not pleased with “ban the box”, and it was the business community which helped to push the law which prevented localities from “banning the box.”

**d. Raise the Age**

John and Kyle report that the Legislature is virtually done until the election. John reports that Raise the Age will have to have more hearings. They haven’t been able to pass it out of committee. The house is currently struggling to get it through. They are currently losing a lot of their bill sponsors, and it appears unlikely to get done right now. Michigan is 1 of 4 states currently in the country which still automatically tries 17 year olds as adults. Mike points out that within the MDOC visitation policy, a minor is identified as a person under 18 years old.

More conversation concerning juvenile issues: Dan raises a new point, that there has been some movement on applying *Miller* and *Graham* conditions to those over 18. Dan reports that it was recently remanded from 6<sup>th</sup> circuit. Some district court judges around the country have applied it to folks over 18. Mostly for people who had just turned 18 years old.

Dan mentions that some people in Michigan who brought the issue to lower courts and lost in lower court, but just recently the 6<sup>th</sup> circuit reviewed and then sent it back for further review.

Barb questioned to see if there was any movement around applying *Graham* or *Miller* to LID sentences. Korbin mentions there has been movement in other states, Barb acknowledges that but questions about movement here in Michigan.

## **10. New Agenda Items Discussion**

There was a brief general discussion about transition plans across state departments/agencies. Steve reports that all the state departments/agencies have been asked to pull together transition plans. These are going further than traditionally done in

election years. The MDOC has the old transition plans from Granholm and Snyder, and their current transition plan is already three or four times the size of previous transition plans. Gov. Snyder is trying to have a smooth transition by making departments give more in-depth transition plans. Department officials such as deputies and other administrator level positions are also providing snippets on what their position entails so the MDOC, nor other state agencies, are not walking out on last day without providing transitional information.

**a. Hepatitis C treatment**

Dan addressed the issue of Hep C. He has tried to stay on top of MDOC's Hep C protocol but had not heard much in some years following when MDOC received money from the legislature a few years ago, some millions of dollars for Hep C treatment. Dan reports he sent out a request letter to prisoners with Hep C, and received a lot of feedback from incarcerated people claiming they are not being treated.

Dan inquired if Dr. Hutchinson with MDOC is still around and Kyle confirms that he is. Dan explained some of the history around Hep C testing/treatment and mentioned that he along with Paul Reingold, worked with the AFSC to litigate because MDOC wasn't disclosing the test results to incarcerated people.

Kyle reports that the MDOC tests for Hep C at intake and the MDOC has been treating Hep C for years after they received more funding. Korbin inquired about the different levels of Hep C, and how that impacts treatment. Kyle explained that the "F4s" are the most serious cases and advanced stages, where there is cirrhosis of the liver. Kyle reports that within MDOC those people who fall between F1 - F4 are eligible for treatment. MDOC triages treatment based on seriousness. Explains that there is a level, F0 where the person is Hep C positive but is not symptomatic. There was recently a settlement concerning DHHS and Medicaid and beginning next October 1<sup>st</sup> (FY20), the F0s will be eligible for Hep C treatment within the MDOC. F0s will have to do some liver testing first, and there are approximately 1300 F0s currently in MDOC.

Kyle reports that the MDOC is "all in" on treating incarcerated people and see it as a public health matter. MDOC reports some prisoners do refuse the treatment. MDOC has the new DAA and the drugs have a 97% success rate. Prisoners who have concerns should kite to healthcare to find out where they stand.

Council inquired if there were also concerns about Hep A outbreaks within the MDOC. Kyle reports that this past year especially at the Detroit Re-entry Center (DRC) there were outbreaks of Hep A. Kyle explained since DRC has people often coming and going in between prison and the community, it impacted the prevalence of Hep A outbreaks.

Barb inquired if MDOC screens at intake based on specific behaviors, and Kyle reports that MDOC screens most new intakes. Kyle says they will also test for Hep C as they discover potentially risky behaviors like incarcerated people tattooing etc.

**b. Section position statements**

Barb wanted to discuss what steps the council takes upon creating position statements, other than reporting them to the Bar. The issue being, if the council takes a position on legislation, then the council can go and testify on behalf of it the legislation. Although many issues in which the council discusses are more MDOC policy issues which do not need to be legislated and there is concern if the papers just sit.

Conversation between council members about how historically the council would sometimes send the positions to outside groups, to then try to push forward, as well as sending them to MDOC. Steve acknowledges that it is often difficult to get the legislators involved, but notes that it is often about networking the positions effectively.

Sandy reports that she didn't send the position paper on Electronic Monitoring to the MDOC. Kyle reports that he shared it with MDOC internally.

Barb asked the council if there is use in a policy committee to review past position statements and then try to set up meetings with the appropriate people concerning the issues in the position statements. At the last council meeting, A Good Time committee was made and in the past the council has made statements concerning Good Time. Mike said he has no objection to a committee of folks who review past policy statements, and formulate way to redeliver them to MDOC or other appropriate parties. The past statements should all be on the Bar's website. Barb said she will circulate something and pull past position statements.

**c. New MDOC director and transition**

(Kyle temporarily excused himself from the meeting at this point; a quorum remained.)

Barb introduced the discussion topic concerning the transition of governors. Every governor puts in transition team in place and upon coming into office, the new governor often cleans house. Brief discussion about the recent history of MDOC directors following transitions between Governors. Barb mentioned that her and John discussed putting together a list of criteria that is submitted to all candidates' transition teams concerning the search for the new MDOC director.

Carol says she thinks it's a good idea and good to have criteria about qualifications and background. Some people discussed that their respective

organizations stance, and some will suggest to candidates that the current administration stays. Barb says that within the suggested criteria we can also suggest that party affiliation isn't important. Some other suggested criteria from council members included: having experience with labor management and the importance of taking care of staff, also having experience in corrections. Steve says that chemistry issue for positions is important and it may be useful to make suggestions for some other positions as well. Sandy suggests that the council includes in the criteria a commitment to certain initiatives that should be codified; such as vocational village, or the department's commitment to re-entry.

Mike, along with Carol and Steve articulate that transition planning is occurring right now, and time is of the essence. It is too late to vote on criteria and put it together at the November meeting. Mike asks if the majority of the council feels November is too late, and most on the council acknowledge it is too late.

Mike suggests the most efficient process is Barb emails the council with ideas and suggestions, and the council gives a couple people the final authority to approve. Mike suggests that three people, plus the chair, have the final authority to approve the criteria by majority vote, as it will not be an official policy statement of the Section. All council members need to give feedback by a date specific.

Barb says she will be the recipient and will collate the criteria into a list. It is suggested that the shorter the criteria list, the better and it should be in the form of bullet points. Mike confirms that we do have letterhead for the Prisons and Corrections section and he will get that from the Bar. John, Carol, Barb and Mike are those with final revision power of this criteria.

**Council members who want to submit criteria must email Barb, Carol, John and Mike by October 11 to submit recommendations. Kyle and Keith, as liaisons to the council, do not need to be included.**

Steve had to leave the meeting at 11:40. Council lost quorum at 11:40hrs. Moved into informational meeting. Kyle returned to the meeting.

## **11. Old Business / June Program**

### **a. Electronic Monitoring Update**

During the conversation concerning position statements, Barb reports that recently one parolee that she knows was told by their PO that they don't have to worry about paying their fees, because they will just garnish their tax returns. Kyle provided an update that there is upcoming legislation to get electronic monitoring fees down to a simplified \$14 a month fee. The department supports and they have a sponsor, Rep. Tommy Brann. HB 6148 and 6149 are the bills about regulating the EM fees.

**b. Food at meetings**

There were renewed requests for vegetarian and other options. Mike will discuss food options with Michelle and find a solution whereby council members can indicate their preferences when they RSVP to meetings.

**c. June Program discussion**

Mike explains that the council doesn't necessarily need to have one theme for the year, but can do a couple of different topics and bring in presenters or set up ad hoc committees to tackle different topics. Mike doesn't have a suggestion for a theme, but acknowledges that his main concern is the proliferation of drugs into MDOC facilities. Mike reports that he sees a lot of cases regarding drug smuggling into MDOC facilities and feels prisoner drug use is at or almost at an all-time high.

Carol suggests a potential topic concerning people being incarcerated who are parents and exploring all aspects of that topic. Most people in prison are coming home and are parts of families, whether they are parents or someone's child. Carol talked about seeing entire generations of families end up in prison. Sandy suggested exploring this topic following up on the event that Citizens for Prison Reform did earlier in the year with Washington State DOC family services division. The head of that division then met with Director Washington, Kyle and MDOC staff following that event. Kyle reports that MDOC recently met with DHHS and discussed ACES (Adverse Childhood Experience), and children automatically get a plus one score for having a parent incarcerated, so it's not only the parent who is punished by incarceration but we're also putting that child at risk.

Sandy suggest the council could also explore Post Incarceration Stress Disorder, which is very much like PTSD but specific for incarcerated people. Sandy suggests considering the effects on parolees and of course those currently incarcerated.

Mike asked the council if they know of presenters on these different topics or if the council just wants to look at policy/ legislation. Sandy says the Children's law section could be a useful connection to the point about families. Carol serves on the Children's law council as well. Barb mentioned that point about Sheryl Kubiak and Wayne State School of Social Work has been doing a lot about trauma with kids and early interventions. Barb asked Kyle if the MDOC is screening at intake about trauma. Kyle reports that the department is now doing trauma screening for female offenders but it is not fully developed for male offenders. More conversation occurred around generational trauma, how many people who end up incarcerated have so many experiences prior to their incarceration with state agencies, but their issues are never fully addressed. These issues, specifically around trauma are even more severe for young men of color because how they're socialized to deal with trauma.

This conversation went on for a little bit, and it seemed like a topic of interest for most council members. The question then arose of how to frame the topic and any potential presenters or a position statement on the topic.

**The potential framing of the topic ended up being: “The criminal justice system as the entrance point for trauma care?”**

Kyle reported that there is an expert on trauma named Marilyn van Deeten. MDOC also has their in-house trauma informed expert, Amanda Elliott. Kyle reports that MDOC is an informal sponsor for a Trauma Informed Care conference at the Detroit Metro Airport Marriott with a group called “Healing Neen.” The conference is Oct 19-21. A simple Google search will find all the registration information.

Korbin asked about Danielle Sered of Common Justice as an expert, John reports that she has a \$5000 speaking fee though.

Mike will pursue a presenter for the November meeting with Kyle.

**d. Finances**

Mike reports that financially the council is in a very good position and will have money to spend this year if a larger than normal program is pursued. Our present balance (around \$8,000) is far larger than all previous years and will increase substantially with the new Bar year dues.

**e. Newsletter**

Pat will still serve as the Newsletter editor.

The next council meeting will be on Saturday, November 3rd, at the Bar, beginning at 1000 hrs. The meeting adjourned at 1203 hrs.

Respectfully submitted,

Korbin Felder, Associate Member  
Prisons & Corrections Council  
Acting Secretary for Ron Emery  
October 8, 2018