

**State Bar of Michigan**  
**Criminal Law Section, Council Meeting Minutes**  
**Lansing Country Club, Lansing, Michigan**  
**January 19<sup>th</sup>, 2016**

**Council Members Present:** Stephen Gobbo (Chair), Opolla Brown, Stephen Taratuta, Hon. Hugh Clarke, Elaine Spiliopoulos, Neil O'Brien, Mike Brady, Michael Marutiak, Hon. Martha Anderson, Bruce Timmons, David Gilbert, Ward McDonough, Ken Malkin, Christine Piatkowski, Charles Sherman, Ryan Zemke, Sherrie Guess, Michael Nichols, Kimberley Thompson

**Council Members Absent With Notice:** Hon. William Caprathe, Stephanie Farkas, Joshua Blanchard, Matthew Smith, William Winters, Charles Marr, Valerie Newman

**Guests:** Nell Kuhnmuech, Jonathan Sacks (MIDC), Marla McCowan (MIDC), Marcella Westrate (MIDC), Kristen Staley (MCCD), Amanda Pollard

**I. Call to Order:** The meeting was called to order by Chairperson Gobbo at 6:40pm.

**II. Adoption of Agenda:** The proposed Agenda was unanimously adopted; motion by Mike Nichols, seconded by Mike Brady.

**III. Secretary's Report and Approval of Minutes:** The minutes of the 12/15/15 Council meeting were presented for review. A correction was made to show that Ward McDonough was not present at the December meeting. December minutes approved as corrected by unanimous vote. Motion by Steve Taratuta; motion seconded without notation of the seconding party.

**IV. Treasurer's Report:** The Chair noted the absence of the Treasurer at the meeting and deferred consideration until the next Council meeting.

**V. Scholarship Committee:** Chairperson Gobbo appointed Michael Nichols as the Chair of the Scholarship Committee with Opolla Brown and Mike Marutiak to serve as members. The mission of the newly formed Scholarship Committee will be to establish criteria, decide amounts, advertise and make selections for State Bar members and perhaps law students to attend our Section's conferences and/or seminars. The Scholarship Committee will report to the Council on its activities on a regular basis.

Mike Marutiak moved that the Scholarship Committee be funded with \$7,000.00 by the Council to award scholarships during the 2016 year. Motion seconded by Michael Nichols. Motion adopted by a vote of 17-1-0 of the Council.

**VI. Expense Reimbursement Policy:** The topic tabled at the December meeting regarding the proper reimbursement for Council member spouses and guests at Section conferences and seminars was taken off the table for discussion. Discussion ensued about the proper practice and inconsistencies in the present practices. Opolla Brown moved that all conference and seminar presenters, all official guests, and all Council planning committee members, be permitted one guest, but not a minor child, at Section cost for lodging and “packaged” meals. Motion seconded by Ken Malkin. Motion approved by Council by vote of 18-0-0.

**VII. Section Lobbyist – Overview:** **Nell Kuhnmuech** was introduced to the Council for the purpose of offering an overview of the benefits, costs and potential drawbacks of employing a lobbyist. It was noted at the outset the Ms. Kuhnmuech is a retired lobbyist and is not seeking to be hired by the Section. Ms. Kuhnmuech suggested that employment of a lobbyist would give the Section “a seat at the table” in many situations, similar to advantages already held by PAMM and CDAM and other groups. It was also suggested that our Section could “piggyback” with another criminal justice-type group to save costs. Most lobbyists would expect a minimum of a 12-month relationship. Questions, answers and discussion followed and Ms. Kuhnmuech was graciously thanked by the Council for her time and expertise.

**VIII. Jonathan Sacks, Michigan Indigent Defense Commission,** provided an update on MIDC activities, staff and initiatives and introduced members of his staff (Ms. McCowan and Ms. Westrate). Mr. Sacks presented the first of four MIDC proposals to the Council. Regional consultants have been hired and are now in place. Within approximately the next year, the MIDC will be proposing additional standards including: 1) that all attorneys with two years or less experience will need skills training and 12 hours of CLE; 2) requirements for when an initial review between an attorney and his or her client should occur; 3) that funding for experts and investigators be provided, and; 4) that counsel should be present at a client’s first appearance and at all subsequent critical stages. Mr. Sacks asked the Council to write comments in support of the standards to the Michigan Supreme Court.

Judge Clarke moved to form a Study Group from the Council on the topic of the standards and the options for action by the Council. Motion seconded by Michael Nicholas. The motion was defeated by a vote of 6-9-1. Judge Clarke then moved to table further discussion until the March Council meeting when Mr. Sacks might return for further discussion. Motion seconded by Charles Sherman. Motion approved unanimously by voice vote of the Council.

**IX. Kristen Staley of the Michigan Council on Crime and Delinquency** was introduced to address the package of twenty (20) pending bills to raise Michigan's "juvenile" age to 18 from 17. A presentation, discussion, questions and responses followed. Bruce Timmons move that the Council support HB 4947, 4948, 4949, 4950, 4951, 4952, 4953, 4954, 4955, 4956, and 4960, 4961, 4962, 4963, and 4965. Opolla Brown seconded the motion. Discussion followed and the Council approved the motion by a vote of 10-4-3 (with Steve Taratuta not present in the room at the time).

**X. Model Criminal Jury Instructions:** Chairperson Gobbo then called the agenda item of comments on Model Criminal Jury Instructions, Crim JL 23.17, regarding vulnerable adults. A discussion followed about the terms and definitions used in the model instructions. Dave Gilbert moved to support the model instructions; Judge Clarke seconded the motion. After discussion the motion was withdrawn. Judge Clarke then moved to support the model instructions in principle; seconded by Ward McDonough. Motion passed by a vote of 12-1-1. Neil O'Brien will send Council members some draft comments and suggestions within the next few days.

**XI. SBM Awards:** The Chairperson noted the opportunity to submit names for the annual SBM awards. Any suggestions for Council recommendations should be forwarded to all members of the Council for later consideration.

**XII.** The Chairperson announced that in the interest of time the Shanty Creek Conference Committee and the Frankenmuth Conference Committee should submit their reports and updates to the Council by email.

**XIII. Next Council Meeting:** Tuesday, March 15<sup>th</sup>, 2016, at the Lansing Country Club. Social hour at 6:00pm. and Council meeting at 6:30pm.

**XIV. Adjournment:** Motion to adjourn at 9:33pm. Motion by Ken Malkin; seconded by Sherri Guess. Motion adopted unanimously.

Respectfully submitted,

*Michael J. Marutiak*

Michael J. Marutiak, Council Member

Acting Secretary for 01/19/16.