

**STATE BAR OF MICHIGAN
CRIMINAL LAW SECTION**

November 17, 2015
Crowne Plaza, Bordeaux Restaurant
Lansing, MI

Attendees:	Steve Gobbo, Judge Caprathe, Stephanie Farkas, David Gilbert, Michael Brady, Charles Sherman, Mike Marutiak, Ryan Zemke, Bruce Timmons, Bill Winters, Opolla Brown, Steve Taratuta, Ward McDonough, Matt Smith, Josh Blanchard, Judge Clarke, Sherrie Guess, Ken Malkin
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Absent: Elaine Spiliopoulos, Kimberley Reed Thompson, Charlie Marr, Erane Washington, Christine Piatkowski, Mike Nichols

Unexcused: None

I. Call to Order –

- Steve Gobbo called the meeting to order at 6:45pm
- Attendance – Reminder to sign in
- Other. Discussion re next meeting and location at Lansing Country Club.
- Council introductions

II. Secretary’s Report/Meeting Meetings

- Discussion re unexcused and excused absences
- Clarke moved to approve minutes as amended, seconded by Brady, carried.

III. Treasurer’s Report

- SBM still in process of completed year-end reports, will forward when received.
- Gobbo mentions the need to approve council meeting expenditures. Clarke moved to approve expenditures for the meetings through the end of the calendar year. Seconded by Taratuta. Mike Marutiak made friendly amendment to authorize through the end of the bar year. Seconded by Brown.
- Motion carried unanimously of all voting members 18-0.

IV. Committees & Reports

- Shanty Creek committee. Finalized Baughman, Moran, and Fishman confirmed, looking for another judge on west side of state. Tim Hicks suggested by Caprathe. Budget previously approved by council.
- Frankenmuth/Policy Conf./Other. Sherrie Guess now on committee. Committee had phone conference this afternoon. Marutiak making presentation for C. Marr since he was unable to make the meeting. Dates of June 10-11, 2016 (Friday/Sat)

coincide with Bavarian Festival, pending availability confirmation from hotel. All day Friday, 1/2 day Saturday. Proposal: Marr and Spiliopoulos heard from people in the field and would like theme to be something along the lines of evaluating truthfulness – suggested Susan Constantine who is a national expert discussing body language, voice tone, etc. Specialty is training attorneys. Full day presentation so we could have her present all day Friday or wrap around Friday afternoon/ Saturday with other speakers. Jury selection topic possible. We normally come in under budget – want to keep registration fee low to draw people, proposing to leave to committee. Fee for speaker is \$7,000. Marutiak moved for approval of theme and up to \$12,000 for conference. Clarke seconded motion. Discussion re theme and speaker. Malkin moved to table. Seconded by Guess. Carried. Judge Clarke on committee too. Caprathe asks that the website be forwarded of proposed next meeting.

- Advertising. Gobbo proposed possible webinars to use as an outreach tool. Discussion. McDonough volunteered to work with Spiliopoulos on the idea. Blanchard will help with logistics.
- Annual Meeting/Nominations. No report. Zemke volunteered to be liaison and work with Spiliopoulos.
- YLS . Spiliopoulos looking into scholarship proposals.
- Farkas requested sponsorship re Dale Carnegie program.
- Gilbert moved to approve \$500, seconded by Smith. Discussion. Gilbert withdrew motion, Clarke moved to approve \$1000, seconded by Malkin. Further discussion re program. McDonough raised question re sponsoring other section's events. Gobbo called for vote. Approved 14-4.
- Legislative – see below.
- Briefs/Amicus. No report.
- Other – filling council positions. Gobbo provided that Graham Teall interested in being appointed and doing committee work. Gobbo open to others. Criminal Jurisprudence has no designee at this time. Judge Hoort proposed – potentially MJA rep.
- Malkin still looking into lobbyist idea.

V. Representatives to the Council and Other Reports or Discussion

- Indigent Defense commission. No report.
- SADO – Gobbo still needs to reach out for liaison.
- CDAM – Malkin reported CDAM had conference last weekend in Traverse City. Good turnout. CDAM has concerns because they're losing MCOLES funding. Sherman indicated MCOLES funding essentially lost for everyone except law enforcement.
- Criminal Jury instructions – Brown and Timmons will work on liaisons.
- Criminal Justice Initiatives. – “ “
- Criminal Jurisprudence & Practice. No report.
- Prisons & Corrections. – Marutiak reported conference planned for 1st Saturday in June. Asking to reserve theme in Bar Journal. Corrections voted to support presumptive parole legislation. Working on public policy position on “virtual prisons” (housing state prisoners in county jails). Timmons provided some background re practice.

- PAAM. – Still need rep. Sherman provided update. Board meeting a few weeks ago.
- Children’s Law Section – No report.
- MJA – No report.
- District Court Judges – Meeting coming up this Friday.
- Board of Commissioners – Washington is new to commission and has not been to a meeting yet. Had orientation – new president provided ideas to convey to sections. Looking to have sections be a resource for the public in providing articles, etc. and building content. Reminded council of when bar takes policy position, section cannot take adverse position.

VI. Legislation/Court Rules

- Timmons provided update last meeting and emailed updates.
- Blanchard raised question re child abuse registry legislation. Seems to be not moving very quickly.
- Presumptive parole – see below.
- McDonough provided update he received re updating definition of mens rea.
- Forfeiture bills (HBs 4499, 4500, and 4503 – 4507) – package signed by Governor. 1 bill not part of package, HB 4629 re eliminating requirement to post cash bond. Blanchard moved to support, Guess seconded. Discussion. Motion 14-1 (members missing from room for vote).
- HB 4766 - Teen court – no action.
- HB 4969 – Physician jury duty. Caprathe moved to oppose, seconded by Brown. Carried 17-0. (Members not in room)
- SB 453 – 3rd class district courts (where cities/townships fund the court). No action.
- HB 4138 – Presumptive parole. Passed House. Only applies to those considered low-risk, demonstrated high probability of parole, Prisons and Corrections voted to support. Tied up in senate in committee. Blanchard moved to support, seconded by Marutiak. Discussion. Timmons motioned to table, seconded by Smith. Carried 8-6 (members out of room for vote).
- HBs 4973-4975. Child abuse registry bills. Blanchard moved to oppose, seconded by Malkin. Discussion. Carried 15-0-2.
- HBs 4947-4966. Tabled.
- HB 4713- Mens rea. Tabled.
- HB 4536, SB 291. Wrongful imprisonment compensation. Reported out of committee. Discussion re movement. Tabled.
- HB 4321. Search and seizure re resident consent. Blanchard moved to support, seconded by Marutiak. Discussion. Carried 13-2 (members left).
- HBs 4419 and 4420. Felony firearm. On house floor. Tabled.

VII. Projects/Other

VIII. Adjournment

- Motion to adjourn by Clarke seconded by Blanchard, adjourned at 9:07pm.