

*Criminal Law Section Council Meeting Minutes
11/19/2019
Country Club of Lansing, 3600 Moores River Dr.
Lansing, Michigan*

I. Meeting called to order at 6:32 pm.

A. Attendance

- **Present (20; 19 voting members):** Christine Piatkowski, Ryan Zemke, Goran Antovski, John McWilliams, Elaine Spiliopoulos, Judge Michael Clarizio, Mike Brady, Stephen Gobbo, Michael Marutiak, Matthew Smith, Josh Blanchard, Doug Lloyd, Christina Hines, Richmond Riggs, Bruce Timmons, Kahla Crino Stephanie Farkas, Jennifer Lamp, Anthony Greene, Sofia Nelson
- **Excused Absences (5):** Edward Zeineh, Judge Clarke, David Gilbert, Judge Martha Anderson. Opolla Brown
- **Unexcused Absences (2):** Amanda Tringl, Brian Watkins
- Also Present – guest Loren Khogali, Michigan Indigent Defense Commission
- The Secretary and Chair confirmed that a quorum was present.

B. Chair Remarks

- Attended an orientation call for new chairs and treasurers – got nuts and bolts on what to do – anyone can come to him with question. State Bar finance person said that if sections carryover 3-4 times their annual operating budget that amount is considered a healthy trust amount. Our section's expenses run 50K a year, we take in 50K a year, we carry over 50K each year, in rough amounts. Essentially, he dispelled the thinking that keeping operational fund for a full year in trust is too much.
- New demographics for section is in. Online if people want to see that.

C. Introductions of all members.

II. Consent Agenda

- Josh Blanchard moves to approve agenda and council minutes from October 22, 2019, seconded by Matt Smith. Chair asks for any discussion. None heard. Approved unanimously by verbal vote.

III. Treasurers Report

- Bar has not given us updated financials. Should have them in December. Chair touched on this – we spend a pretty expensive amount on printing packet of agenda and documentation. So how many people really need them? A few hard copies of materials will be available at meetings but Council members are encouraged to print

their own copies beforehand or have access to them by laptop, I-pad, etc. General agreement among members.

IV. Guest Presentation: Loren Khogali, Executive Director, Michigan Indigent Defense Commission

- Stephanie Farkas – introduction of guest
- Loren Khogali’s Presentation:
 - This is the MIDC’s first year distributing funding to 134 local systems, beginning to work with those systems as they are implementing, and monitoring compliance.
 - Brief history of the commission.
 - Currently 13 staff members, including 6 regional managers. 18 person commission. Brief overview of the people on the commission.
 - Big issue from the beginning has been funding.
 - 16 new public defender offices opened this year. Expecting more in 2020.
 - 85% of funding goes to funding attorneys. 10% goes to experts and investigators. Additional funds going to fund construction to build spaces to meet and trainings.
 - Now monitoring compliance. Receiving quarterly compliance information from the systems. Also regional managers are monitoring the courts themselves to see if counsel is present and what is happening.
 - Starting to compile the information from compliance reports.
 - 2020 all but 9 compliance plans are approved.
 - Next meeting is in December.
 - Next steps:
 - Developing standards for “indecency” – the initial step is in development. We have distributed a survey about retainers. CDAM sent it out today. We got a lot of responses quickly, so that will be a helpful tool as we develop this standard.
 - Standards for training and trainers. As we move through this year we will begin developing those standards.
 - Second set of standards for 5) independence from judiciary – and 6-8) caseloads, qualifications, compensation, was submitted in Sept 2018. We have asked LARA to pass standard 5 (independence from judiciary) and allow more time for 6-8. Have not yet received word about this.

V. Legislative and Court Rules

- Presented by Chair Marutiak. ADM File 2018-34
 - Sofia Nelson moves to support; Josh Blanchard seconds
 - Discussion ensues.
 - Crino – concern with phrasing of right “to seek” being too vague
 - Nelson – believe “to seek” is the correct phrasing
 - No further discussion.

- A hand vote was taken. The motion to support the proposed amendment was passed by a Council vote of 16-1-2.
- Chair - will be so reported.
- Presented by Chair of legislative committee – Bruce Timmons
 - HB 4351 – HB 4360
 - Discussion ensues.
 - Position of Council – We will not yet take a position on this issue until the results from the task force on bail reform are published so that we can make an informed decision on bail reform. Further, it is our recommendation that the board of commissioners hold off on taking a position on these house bills until they see the results from the governor’s task force.
 - Bruce Timmons moved that our recommendation to the Bar’s Board of Commissioners be approved; Ryan Zemke second
 - A hand count vote was taken. The motion to make the recommendation to the Board of Commissioners was passed by a Council vote of 18-1-0. Ryan Zemke, an elected Council member and the Commissioner liaison to our Council, stated he would convey the vote to the Board of Commissioners.
 - HB 4031-HB4032
 - Discussion Ensues
 - Mike Brady moved to support - Matt Smith second
 - A hand count vote was taken. The motion to support both bills passed by a vote of 19-0-0
 - New Issues
 - Expunction of records. Tabled at last month’s council meeting, but these bills have moved out of the house and into the Senate. The Legislation Committee may offer the bills as an agenda item for the Council’s December meeting.

VI. Committee Reports

- Mid-Winter Conference Committee
 - Goran Antovski – we have been in email communications. Last meeting there was discussion as to collateral consequences. Some members floated individuals that we wanted to reach out to. I was recently at the CDAM conference and there were a couple of collateral consequence meetings and those were quite informative. Also a question of keynote speaker. Elaine mentioned some people. We are proceeding with collateral consequences being the focal point of the conference. Location – Saturday-Sunday Feb 15-16 at Soaring Eagle.
 - Will the Section finance the hotel and registration expenses for Council members and, if so, will the Chair schedule a Council meeting at the conference site for February? Committee needs to come up with a recommendation for the hotel and registration expenses for consideration at the Council’s December meeting.
 - Council Members – Put this conference on your calendar – we should all be there.
- Newsletter:

- Elaine Spiliopoulos - should be out next week. We do 10 newsletters a year.
- No other committee chairs reporting.

VII. Representatives to Council Reports/Discussion:

- Michigan District Judges Association
 - No consensus reached on the bail reform bills.
- PAAM
 - nothing new to report this month
- Criminal Jurisprudence and Practice Committee
 - Meeting on Jan 10. Implicit Bias jury instruction we voted to support. Supported adding jury roles to include voter registration and driver's license, and property tax rolls. But we opposed doing the third class districts juries.
- Prisons and Corrections
 - That section has reserved Sat June 6 for annual conference.
- Children's Law Section
 - No report, still working on competency and creating a manual.
- Commissioner Liaison
 - No further update.

VIII. Old Business

- None

IX. New Business and Updates

- Steve Gobbo - Jail Task Force headed by Lieutenant Governor to reduce jail populations in the state – need to watch out for report this coming January.
- Chair – Our Bylaws require that the Council shall declare a seat vacant if the member has had 3 consecutive unexcused absences. We are required to confirm every year with the parent groups who send us representatives. If someone doesn't show up, that adversely affects our quorum numbers. Chair has had several contacts with CDAM, as have our other officers in the past, regarding the excessive absences of the CDAM representative at our Council meeting. The specifics of the absences were referenced and documented. Contacts with CDAM did not lead to resolution of the issue. Our Council wishes to have a CDAM representative at our meetings for an exchange of information. Chair would like to send a formal letter to CDAM explaining that 1) our desire is to have a CDAM representative at our meetings because their contributions are important; 2) pursuant to our own Bylaws our Council has officially declared a vacancy in the CDAM seat but has not removed the right recognized in our Bylaws for CDAM to appoint someone and; 3) our hope is that CDAM uses the opportunity to appoint an active representative.
 - Steve Gobbo moved to declare the CDAM seat vacant and for the Chair to write a formal letter to CDAM – Matt Smith seconded.
 - Vote for support – resounding aye. Several opposition votes were noted. Motion passes.

- Chair - Annual meeting is nearly a year away. Beginning last fall, all the sections were separated from the site, time and place of the Bar's annual meeting. We had to support an entire conference last September as an incentive to get our Section members to attend a rather short (20 minute) annual meeting. What should we do next year? One idea is to partner with 2-3 other sections, hold 1-2 day conference in September with simple break-out segments for the respective annual meetings, and thus share expenses, topic presenters and advertising.
 - Mike Brady's alternative idea is to have 5-6 groups hold 2-3 meetings in close proximity to reduce costs.
 - Try to think about possible ideas for the annual meeting and which other Bar section we might approach to partner with us.
- Next Meeting: Dec. 17th Tuesday 6:00 (social), Lansing Country Club
 - Discussion about moving date a week earlier. Council decides to keep the date as is – no vote needed.

X. Adjournment

- Josh Blanchard moved to adjourn - Second by Steve Gobbo. Vote for support – resounding Aye. Opposition to Josh's motion from Josh noted.
- Adjourned at 8:12 pm.

Respectfully submitted,

Christina Hines (P-78828)
 Secretary, Criminal Law Section
 November 20, 2019f

Minutes approved by the Council, *as written/as revised*, by *voice/hand count* vote of _____ at the Council's December 17th, 2019 meeting. Motion to approve made by _____; seconded by _____.