

CRIMINAL LAW SECTION COUNCIL
Minutes for October 21, 2008

MEMBERS PRESENT: Matthew P. Smith, Opolla Brown, Kenneth M. Malkin, Stephen M. Taratuta, Hon. John T. Hammond, Graham L. Teall, M. Jon Posner, Michael J. Brady, Erika S. Julien, Barbara R. Levine, David E. Gilbert, Martin P. Krohner, Bruce A. Timmons, Stephen J. Gobbo

OTHERS PRESENT: Daniel M. Levy, Elizabeth Lyon

ABSENT WITH NOTICE: Ralph C. Simpson, Charles H. Marr

ABSENT WITHOUT NOTICE: Patrick M. O'Connell, David S. Leyton, Steve B. Lockhart, Gerald S. Surowiec, Mary C. Pino, Michael J. Marutiak, Elias J. Escobedo, Jr.

The meeting was called to order at 6:38 p.m.

The agenda was amended and approved by consensus.

APPROVAL OF MINUTES

Draft minutes from the prior year were adjourned until the next regular meeting. Minutes for the Annual Meeting were approved as corrected.

TREASURER'S REPORT

The Treasurer's report was accepted.

CHAIR'S REPORT

The Chair updated the Council upcoming issues for the new fiscal year.

COMMITTEE REPORTS

The council discussed possible methods for the improved management of seminars. The Chair appointed Ken Malkin, Graham Teall, and Jon Posner as a committee to investigate this issue.

SKI CONFERENCE

The Chair appointed Opolla Brown, Steve Taratuta, and Jon Posner as the committee to plan the Ski Conference.

MACKINAW CONFERENCE

Discussion of the committee and plans for this conference will be discussed next month.

LEGISLATIVE UPDATE

Bruce Timmons gave an update of current legislative activity.

Dan Levy and Ken Malkin gave an update of a working group put together by Representative Paul Condino, Chair of the House Judiciary Committee, on the reform of

Preliminary Examinations. A concern was raised that Representative Condino planned to introduce legislation that would permit extensive use of hearsay at a preliminary examination similar to a Senate Bill that had previously been defeated in the House. It was expressed that this was contrary to the sentiment of most of the members of the working group.

A discussion followed that altering the hearsay rules for preliminary examinations was a position that the Criminal Law Section had previously opposed.

A motion was made by Jon Posner supported by Hon. John T. Hammond that the Council re-affirm its previous position and proposal on reform of preliminary examinations and oppose any legislation that would alter the rules of evidence on hearsay for preliminary examinations. Motion carried 14-0.

WEBSITE UPDATE

The Chair pointed out that the website for the Criminal Law Section is in need of an update. Ken Malkin is to call Elaine Spilopoulos about posting prior newsletter on the website.

2009 LAW SCHOOL FOR LEGISLATORS

Elizabeth Lyon of the State Bar of Michigan gave the council an update on an upcoming Law School for Legislators to be held in February or March of 2009. She was seeking volunteers to serve as faculty members and to develop a curriculum. The Chair appointed Ron Schafer, Hon. John T. Hammond and David Gilbert as a committee to develop a curriculum and establish faculty for the Law School.

91 DAY TRACK PROBLEM

An update on this issue was given by Stephen Taratuta.

HOUSE BILL 6341

A report was given by Dan Levy on the proposed legislation which is designed to replace the current ethnic intimidation statute. A motion was made by Erika Julien supported by Graham Teall to support the proposed legislation. Following further discussion a motion was made by Barbara Levine supported by Mike Brady to table the matter until next month. Motion carried.

CRIMINAL LAW SECTION POLICY ON PAROLE

Ken Malkin discussed the parole board policy of denying parole based on an inmate maintaining their innocence. This led to a broader discussion about denying parole for reasons that are not supported by a statistical correlation to recidivism. Barb Levine agreed to develop an amendment to the Criminal Law Section's policy position on Parole.

GOOD AND WELFARE

The Chair assigned for reading for next month's meeting House Bill 6305 and an article on mental health entitled Trapped in the System.

The meeting adjourned at 8:49 p.m.