

AUGUST-SEPTEMBER 2008

NEWS & VIEWS

THE CRIMINAL LAW SECTION / STATE BAR OF MICHIGAN NEWSLETTER

2007-08 Officers:

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Events

State Bar of Michigan Annual Meeting September 17-19, 2008 Hyatt Regency, Dearborn

The Criminal Law Section will hold a short business meeting beginning at 9 a.m. on Friday, September 19. During the meeting, elections will be held to fill five positions on the Council. Incoming Chair, Matthew P. Smith, will also be inducted. Our annual program will begin shortly after the business meeting.

The Criminal Law and Criminal Issues Initiative will present a joint program - "The Future of Michigan's Public Defense System: Free Fall, Free-for-All, or Fixed - Once and for All" - to discuss the state of public defense in Michigan.

The panel will include members of the prosecution and defense bar, a clinical law professor, justice system researchers and a sitting felony court judge, who will moderate the session. Please join us from 10 a.m. to 12 p.m. to discuss the future of our state public defense system.

More detailed information on elections and our annual program is provided on the following pages of this month's newsletter. For registration, schedules, and other general information about the Annual Meeting, please visit: www.michbar.org/annualmeeting.cfm.

Council Meeting Sheraton Hotel, Lansing

The Council will not meet during the summer months, but will reconvene in October. The meeting date will be announced in an email to council members, and will appear in next month's newsletter. The meeting will be held in the Hemingway Room of Christie's Bistro, located within the hotel. The hotel is located at 925 South Creyts Road, immediately off I-496 at the Creyts Road exit. Social hour begins at 6:00 p.m., with dinner and the meeting beginning at 6:30 p.m.

Annual Meeting Details

Friday, September 19, 2008:

9 a.m. – 9:30 a.m.: Criminal Law Section Business Meeting

The Criminal Law Section will elect five members to the Council. The five candidates receiving the most votes will serve a term of three years on the Council. To be elected, a candidate must be a Member of the Criminal Law Section. Those who wish to be nominated, or those who wish to nominate a Section Member to stand for election to the Council, should submit the following to the Nominating Committee:

Name of the nominee, P number, and address

A brief written candidate statement (by or on behalf of the nominee).

Nominations will be allowed from the floor. Please confine the written candidate statements to no more than one page, and submit them via e-mail to: Btimmons@house.mi.gov or via US mail to:

Bruce A. Timmons, Legal Counsel
House Republican Policy Office
P.O. Box 30014
Lansing MI 48909-7514

The Section's annual meeting begins at **9:00 A.M.** at the **Hyatt Regency Dearborn**. You must be present to vote. Candidates do not have to be present, but their presence is encouraged. A brief oral statement by candidates is permitted before elections. Please be prompt – or you may miss the election. The winners of the election will be announced in next month's newsletter.

If you have any questions about the elections, please call Bruce Timmons, Nominating Committee Chair: 517-373-0770.

10 a.m. – 12 p.m.: Criminal Law Section and Criminal Issues Initiative Joint Program

“The Future of Michigan's Public Defense System: Free Fall, Free-for-All, or Fixed—Once and for All.” This program is offered on the heels of the National Legal Aid and Defender Association report, which concludes that Michigan fails to provide adequate legal counsel as mandated by the Constitution. Join stakeholders in discussing the future of how public defense services are delivered in Michigan. Formally meet the Michigan Campaign for Justice, a new nonprofit organization advocating for a fair and effective public defense system in Michigan.

David Carroll, Director of Research and Evaluation, National Legal Aid and Defender Association

David A. Moran, Co-Founder, Michigan Innocence Clinic at The University of Michigan Law School

Elaine Nugent-Borakove, Senior Project Director, Justice Management Institute

Ronald J. Schafer, Ionia County Prosecuting Attorney, Prosecuting Attorneys Association of Michigan

Margaret Sind Raben, President, Criminal Defense Attorneys Association of Michigan

Hon. Cynthia D. Stephens, Third Circuit Court Judge and Co-Chair of the Committee on Justice Initiatives, will moderate the program.

In addition to our own meeting and program, the following events may also be of interest to our members:

Please join us in honoring Bruce A. Timmons, Criminal Law Section Legislative Counsel, who will receive the Frank J. Kelley Distinguished Public Service Award. The annual award was created to recognize extraordinary governmental service by a lawyer who: serves in the public sector in a way that strengthens our system of justice under the law; demonstrates the highest standards of integrity, fairness, leadership, excellence, dedication to principle and dedication to the ideals of democracy; and, has made a significant lasting contribution to the nation, state, or community in which s/he lives or serves. The award will be presented during the State Bar of Michigan Awards Banquet, which will be held on Wednesday, September 17, 2008 from 6:30 – 9:30 p.m.

The Justice Initiative will offer the following criminal law-related program on Thursday, September 18, 2008: “Incarceration or Graduation?” will be presented from 9 a.m. to 12 p.m. Juveniles most at risk of entering the “School-to-Prison Pipeline” often have emotional troubles, educational disabilities, or other mental health needs. Rather than receiving help in school they are passed on to the court system, a path that often leads to a future in adult prisons. Join the State Bar’s Equal Access Initiative and Michigan Protection and Advocacy as they host a panel of experts featuring special guest Ron Lospennato, Director, Southern Poverty Law Center’s School to Prison Reform Project.

The aforementioned programs are open to all members of the bar.

United States Supreme Court – Cert Granted

Bell v Kelly, No. 07-1223 (May 12, 2008): Review was granted to determine whether the federal habeas provision governing claims adjudicated on the merits in state court, 28 U.S.C § 2254, should be applied to claims of ineffective assistance of counsel that the state court refused to consider.

Arizona v Johnson, No. 07-1122 (June 23, 2008): Review was granted to determine whether officers violated the constitutional prohibition against unreasonable searches and seizures when, after making a routine traffic stop, they searched an individual who was consensually conversing with them and was not suspected of committing any criminal offense.

Cone v Bell, No. 07-1114 (June 23, 2008): Review was granted to determine whether a federal habeas claim was procedurally defaulted because it had been twice presented to the state courts, and whether a federal court was precluded from recognizing that a state court erred in holding that state law precluded reviewing a claim that the prosecution suppressed exculpatory material contrary to *Brady v Maryland*, 373 US 83 (1963).

Harbison v Bell, No. 07-8521 (June 23, 2008): Review was granted to determine whether prisoners sentenced under state law are afforded the right to federally-appointed and funded counsel to pursue clemency under state law, and whether a district court's denial of such a request may be appealed without a certificate of appealability.

Knowles v Mirzayance, No. 07-1315 (June 27, 2008): Review was granted to determine whether, under federal habeas law, defense counsel's recommendation to withdraw an insanity plea constituted ineffective assistance of counsel.

Editor's Note

The Council has discussed the option of electronic delivery of News & Views. In order to provide you with more timely delivery of the newsletter, and to lower printing and mailing costs associated with its production, members may be given the option of receiving this publication through email in a pdf attachment. The Council is trying to gauge interest in, and address member concerns of, receiving electronic delivery of the newsletter. To comment, email the editor at elaine@zaret.com. Please include the following subject line in your email: electronic delivery of newsletter. The issue will be discussed in a future monthly meeting.
