

# News & Views



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## Events

### **Council Meeting April 19, 2011 University Club - Lansing**

The Council's monthly meetings now convene at a new location - the University Club of Michigan State University. The University Club is located at 3435 Forest Road, on the southwest corner of campus, and adjacent to the James B. Henry Center for Executive Development, Candlewood Suites Hotel, and Forest Akers Golf Courses. From I-496/US-127, take the exit for Jolly Road. Social hour begins at 6:00 p.m., with dinner and the meeting starting at 6:30 p.m.

### **Biennial Criminal Law Section Policy Conference June 17-19, 2011 Grand Hotel - Mackinac Island**

The Section presents its classic policy conference at the Grand Hotel. The event attracts legislators, policy makers and other professionals, as well as our own members. This year's topic is Michigan's Medical Marihuana Act. Conference participants, with the assistance of a distinguished panel of professionals, will examine issues surrounding the legislation and adopt a position statement to guide future action.

The Grand Hotel is offering special rates for conference attendees, and reservations can be made by faxing the enclosed form directly to the hotel. Mission Point Resort is offering conference attendees a special rate of \$199/night. Children under eighteen stay free and children under twelve eat free. The Murray Hotel is also holding rooms for the special rate of \$165/night. Other accommodations can be found at [www.mackinac.com](http://www.mackinac.com).

The \$75 conference registration fee includes a reception at the Grand Hotel. Arnold Lines will again provide discounted ferry service, free parking and valet service in both Mackinaw City and St. Ignace.

For questions about the conference, contact Charles Marr: [marrlaw@msn.com](mailto:marrlaw@msn.com) or 248-596-1599.

## Mid-Winter Ski Conference at Shanty Creek Resort

Photos courtesy of Criminal Law Section Chair-Elect Stephen Taratuta.



Tim Baughman (l), Chief of Research Training & Appeals for the Wayne County Prosecutor's Office, reviewed last year's high-impact court decisions.

Patrick Barone (r), a private attorney specializing in the defense of drinking drivers, discussed the new "Super Drunk" law.



Steve Fishman (l), a private criminal defense attorney from Detroit, taught us how to cross-examine the difficult police witness.

# State Bar of Michigan - Criminal Law Section

ARRIVE: Friday, June 17, 2011 DEPART: Sunday, June 19, 2011

ACCOMMODATIONS MAY BE AVAILABLE PRIOR TO AND FOLLOWING THE ABOVE DATES

Return this form by: Tuesday, May 17, 2011

To: Reservations Department  
 Grand Hotel  
 PO Box 286  
 Mackinac Island, Michigan 49757  
 Telephone: (906) 847-3331  
 Fax: (906) 847-0945



MR. \_\_\_\_\_  
 MS. \_\_\_\_\_  
 MR. AND MRS. \_\_\_\_\_  
(circle one) (please print or type)

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Cell Phone (\_\_\_\_) \_\_\_\_\_

If sharing a room, name(s) of person(s) sharing with you: \_\_\_\_\_ Business Telephone (\_\_\_\_) \_\_\_\_\_

E-mail \_\_\_\_\_

Grand Hotel offers a variety of room types for conference attendees. Guests sometimes ask to arrive earlier or remain later than the conference's official dates. We welcome your request for a specific room, room type, or room dates either prior to or following the conference. While your request will receive careful attention, please understand that it cannot be guaranteed.

ARRIVAL DATE: \_\_\_\_\_ DEPARTURE DATE: \_\_\_\_\_

**PLEASE RESERVE THE FOLLOWING ACCOMMODATIONS:**

	DOUBLE Daily, Per Person, Based on Double Occupancy	SINGLE Daily
CATEGORY I - Smaller, interior-view rooms	_____ \$199.00	_____ \$323.00
CATEGORY II - Larger, interior-view and smaller, lake-view rooms	_____ \$239.00	_____ \$403.00
CATEGORY III - Special, deluxe lake-view guest rooms, some with balcony	_____ \$304.00	_____ \$533.00

Grand Hotel operates on the **Modified American Plan**. This means that your daily rate *includes* breakfast and dinner. In addition to our Grand Luncheon Buffet, other facilities are available at Grand Hotel for lunch.

**RESERVATIONS FOR ADDITIONAL PERSONS**

- \_\_\_\_\_ 4 years of age and under, no charge
- \_\_\_\_\_ 5 through 11 years of age, no charge
- \_\_\_\_\_ 12 through 17 years of age, \$55.00 daily, per person
- \_\_\_\_\_ 18 years of age and over, \$130.00 daily, per person

For an adult staying in a guest room with one or more children, the adult will pay the single convention rate, the children will be at the appropriate children's rates listed above. For two or more children staying in a guest room without an adult, the oldest child will be charged the single convention rate based on the category of room they are in and the remaining children will be at the additional persons rates listed above.

PLEASE NOTE THAT A LIMITED NUMBER OF ROOMS ARE AVAILABLE FOR EACH RATE CATEGORY. IF THE RATE REQUESTED IS NOT AVAILABLE, THE CLOSEST AVAILABLE RATE WILL BE CONFIRMED.

**NO TIPPING:** Tipping to any employee anywhere within Grand Hotel is not required, expected or permitted. Tipping is suggested at the following offsite restaurant locations: The Jockey Club at the Grand Stand, Woods, The Gate House and Fort Mackinac Tea Room.

**NOTE:** Michigan 6% Sales Tax applies to all charges, including a 19.5% added charge on the per person daily room rate. There is also a 2% Mackinac Island Assessment charge on the per person daily room rate. There is a one-time charge of \$7.50 per person for transfer of luggage from the dock to the Hotel and return. Taxi transportation to and from the boat docks and the Hotel is not included in the daily rate.

The block of rooms being held for this meeting is based on estimated attendance. Please make your reservation as promptly as possible. Requests received after the block is filled will be contacted and given an option of being placed on a waitlist. The waitlist is not a guarantee of a room. All rooms in the block which have not been reserved 30 days in advance of the meeting will be released for other guests. Individual group reservations are subject to a 10-day cancellation policy. Reservation deposits will be refunded if cancelled 10 or more days prior to arrival, less a \$40.00 processing fee. Reservations cancelled less than 10 days prior will forfeit the room deposit.

Once a guest confirms a departure date upon check-in, should check-out occur earlier than agreed, there will be a \$375.00 charge.

**DEPOSIT POLICY:** A deposit of either one night's stay or the full stays room charge must accompany this form in order to hold your room.

METHOD OF DEPOSIT:  Visa  MasterCard  Discover  AMEX  Check

Please charge one full night rate to my credit card  Please charge my full stay to my credit card

CREDIT CARD NUMBER: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ (Not valid without signature)

Grand Hotel accepts VISA, MasterCard, Discover, American Express, Diners Club, personal checks, and cash payments for bills.

**CHECK-IN TIME:** After 4:00 p.m. **CHECK-OUT TIME:** Before 11:00 a.m.

Visit our Web site at <http://www.grandhotel.com>

Your hotel confirmation will be arriving to you via e-mail. Please check your confirmation to make sure it is correct and print it for your records. Please contact us with any questions or changes.

In accordance with Michigan law, all Grand Hotel guest rooms, meeting rooms, restaurants and bars are non-smoking.

## Meet the Council

During the March meeting, **Sherrie P. Guess** was selected to serve out the remainder of the term left vacant by the passing of Gerald Surowiec. Ms. Guess has been an attorney for almost thirty years. She previously worked for the State Appellate Defender Office, and is now in private practice. Sherrie has a long history with the Criminal Law Section Council. Four years ago, she was poised to take the helm when she resigned her position to accept a limited appointment as a Pro Se Law Clerk with the United States District Court for the Northern District of Indiana.

## In Memoriam

The Criminal Law Section, our council and the entire bar have lost a great attorney, a great friend, and a great person with the passing of Gerald Surowiec. Since I have been on the Council, we have had two legal giants pass away. Previously, we lost Norris Thomas. Certainly Jerry was also such a giant among his peers in the legal community.

I personally remember Jerry as a frequent contributor on the SADO Forum, which he filled with knowledgeable and often humorous insights. But, most of all, I remember his notable tag line: “often in error, but never in doubt.”

As a member of the Council, he was always ready to volunteer for difficult challenges, having served on a number of committees during his tenure. Our Council discussions were enhanced by his contributions. Unfortunately, I do not feel words can do full justice to Jerry. We will miss him dearly.

Kenneth M. Malkin  
Criminal Law Section Chair

On February 15, 2011, we lost our beloved friend and Council Member Gerald (Jerry) Surowiec. Jerry was an active member who attended annual meetings, board meetings and seminars. Jerry was always able to make important and constructive points in a non-intrusive but most productive manner.

I was honored to have known him since I began practicing law in Recorder’s Court, i.e., the Criminal Division of the Third Circuit Court. Jerry was available for all of the young attorneys with helpful suggestions in both trial and appellate work. The ebb and flow in conversations with Gerry were easy and productive. The last couple of years I was fortuitous to drive with him for the monthly meetings, as well as to the annual meeting and various scheduled conferences. The car rides together were engaging, quick and a lot of fun. We covered just about everything and, as I would always say, there was never the need for the radio or CD.

Jerry will be missed by all of us and we all take this opportunity to thank his wife, Mary Kathleen; his sons, Jerry and Jim; and his daughter, Kate, for so lovingly sharing their husband and father with us over all these years.

M. Jon Posner  
Criminal Law Section Council Member

Known for his sense of humor, Gerald Surowiec was a passionate advocate who was liked and respected by judges, prosecutors and defense attorneys alike. During a legal career that spanned more than forty-five years at both the trial and appellate level, Jerry tried hundreds of cases and authored over seven hundred appellate briefs. He served on the council as an elected member, and was a member of the council when he passed away. Mr. Surowiec was also involved in the Wayne County Criminal Defense Bar Association, the Advocates Polish-American Bar Association and the State Bar of Michigan's Criminal Jury Instruction Committee. A true gentleman, Jerry will be greatly missed by his family, friends and colleagues. The family has suggested the following charity for memorial contributions:

Frances Carpenter Endowment Fund at the Redford Public Library  
Community Foundation of Southeast Michigan  
333 W. Fort Street #2010  
Detroit, MI 48226-3134

If you would like to donate to this fund, make your check out to the Community Foundation of Southeast Michigan, and note in the memo field "Frances Carpenter Endowment."

## Proposed Amendments to Court Rules

**Rule 7.212** (Briefs) and **7.215** (Opinions, Orders, Judgments, and Final Process from Court of Appeals): The Michigan Supreme Court recently declined to adopt the proposed amendments, which would have eliminated the requirement to provide a copy of an unpublished decision of the Court of Appeals if that decision was issued after July 1, 1996, and if a case number was provided. (ADM File No. 2009-22; February 1, 2011).

## Legislative Update

**HB 4106.** This bill would amend the expungement statute, which currently allows only one criminal conviction of any type, to one or more convictions under the following circumstances: 1) A person convicted of one felony offense and not more than two misdemeanor offenses could petition to set aside the felony offense; 2) A person convicted of not more than two misdemeanor offenses and no other felony or misdemeanor offenses could apply to have either or both of the misdemeanor convictions set aside; or 3) A person who had not been convicted of a felony offense but who had been convicted of not more than one misdemeanor offense for causing damage or injury to another person or to property could petition to set aside that misdemeanor conviction. For purposes of eligibility only, under any of these provisions, a traffic offense would not constitute a misdemeanor except operating while intoxicated.

*Editor's Note:* The Criminal Law Section supports this legislation.

**HB 4074, 4075, 4076 & 4077.** This package of bills would require prisoners to try to obtain the necessary documents for a state identification card upon release from incarceration. The Department of Corrections and the Secretary of State would also be required to help prisoners get the identification documents. In addition, all prisoners would be issued a photo identification card when released.

*Editor's Note:* The Criminal Law Section supports this legislation in principle.

**SB 152.** This bill would require law enforcement officers to make an audiovisual recording of an entire custodial interrogation of an individual questioned about his or her involvement in a major felony. It would also allow the recording to be made without the consent or knowledge of, or despite the objection of, the person being interrogated. In addition, a copy of the recorded statement must be provided to the defense upon a discovery request, and a jury must be instructed about the recording requirement and could consider the absence of such a recording.

*Editor's Note:* The Criminal Law Section supports this legislation in principle.

**SB 188, 189 & 206.** Under SB188 and 189, the Sex Offenders Registration Act would be revised to conform to mandates under the federal Sex Offenders Registration and Notification Act, part of the Adam Walsh Act. Specifically, the bill would split listed offenses into Tier I, Tier II, or Tier III, with the least serious offenses in Tier I. The required registration period would be: fifteen years for offenses in Tier I; twenty-five years for offenses in Tier II; and, life for offenses in Tier III. Tier I offenders would report annually, Tier II offenders would report twice a year, and Tier III offenders would report quarterly. In addition, some consensual encounters would be excluded from certain offenses. SB 206 would amend the sentencing guidelines to reflect a change in the maximum sentence for failing to update registration information or report as scheduled. Specifically, the sentence would change to a statutory maximum of two years.

*Editor's Note:* The Criminal Law Section supports this legislation in principle.