

SEPTEMBER 2007

# NEWS & VIEWS

THE CRIMINAL LAW SECTION / STATE BAR OF MICHIGAN NEWSLETTER

2006-07 Officers:

Chair:  
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Chair-Elect:  
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Editor:  
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## Events

### State Bar of Michigan Annual Meeting September 26-28, 2007 Amway Grand Plaza Hotel, Grand Rapids

The Criminal Law Section will hold a business meeting from 9 a.m. to 10 a.m. on Friday, September 28, 2007. During the meeting, elections will be held for positions on the Council, and Chair-Elect Sherrie P. Guess will be installed as Chair of the Criminal Law Section. Our annual program will immediately follow the brief meeting.

The Criminal Law and Prison and Corrections sections will present a joint program - "Sentencing and Parole Practices Collide with our State Budget" - to discuss possible changes to our sentencing guidelines, parole guidelines and other changes to reduce our prison population. These changes may significantly impact our professions.

A panel discussion will include legislators from both sides of the aisle, the Governor's office, and members of the bar. Please join us from 10 a.m. to 2 p.m. for a provocative and lively discussion about the future of our state prisons.

More detailed information on elections and our annual program, in addition to other programs of interest to the criminal law community, is provided on the following pages of this month's newsletter. For general information about the Annual Meeting, please visit: [www.michbar.org/annualmeeting.cfm](http://www.michbar.org/annualmeeting.cfm).

### Council Meeting October 16, 2007 Sheraton Hotel, Lansing

Our next monthly council 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 28, 2007:

### **9 a.m. – 10 a.m.: Criminal Law Section Business Meeting**

The Criminal Law Section will elect five members to the Council for a term of three years, and fill one vacancy for one year. The five candidates receiving the most votes will serve a term of three years, and the candidate with the sixth highest vote total will fill the vacancy and serve the final year of that term. To be elected to the Council, 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](mailto: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

You must be present at DeVos Place in Grand Rapids 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.

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

### **10 a.m. – 2 p.m.: Criminal Law Section Annual Program**

“Sentencing and Parole Practices Collide with our State Budget.” Does Michigan put too many people in prison? Or, are we keeping them too long? Is Michigan’s prison system costing too much? Will the Governor and legislature reduce Michigan’s prison population to help balance the state budget? What challenges do we face to assure that the costs of incarceration provide a public benefit? Are we doing enough to rehabilitate prisoners to reduce recidivism? What impact will it have on our criminal justice system? Please join us to examine these issues with the assistance of the following distinguished panelists:

**Senator Alan Cropsey**, (R) DeWitt, Senate Majority Floor Leader  
**Representative Paul Condino**, (D) Southfield, Chair of the House Judiciary Committee  
**Lynn Owen**, Governor’s Legislative Advisor for the Budget  
**Margaret Raben**, Defense Attorney, Detroit, President of CDAM  
**Jeff Sauter**, Eaton County Prosecutor, Past-President of PAAM  
**Judge James C. Kingsley**, Calhoun County Circuit Judge, Past Chair of Judicial Tenure Commission, Former President of MJA (Michigan Judge’s Association)

**Lynn Jondahl**, Executive Director of Michigan Prospect, will moderate the program.

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In addition to our own meeting and program, the following events are also open to our members:

Please join us in honoring Norris J. Thomas, Jr., a charter member of the Criminal Law Section and a former Section Chair, who will posthumously receive the Representative Assembly's Unsung Hero Award. The annual award was recently created to recognize a lawyer who has exhibited the highest standards of practice and commitment for the benefit of others. The award will be presented to a member of Norris' family during the Inaugural Luncheon, which will be held on Thursday, September 27, 2007 from 12 p.m. to 2 p.m.

The Criminal Issues Initiative will offer the following criminal law-related events, also scheduled for Thursday, September 27, 2007:

"The Hidden Obstacles of Civil Collateral Consequences: Life After Conviction" will be presented from 9 a.m. to 11:30 a.m. Darryl Hunt, who was exonerated after eighteen years in prison, will be the featured guest. The program will be moderated by Third Circuit Court Judge Cynthia D. Stephens, and will examine our own state's public defense system, civil collateral consequences of criminal convictions, and eleven principles of a public defense delivery system.

"The Trials of Darryl Hunt" (HBO Documentary Films) will be shown from 3 p.m. to 5 p.m. The film, which chronicles Mr. Hunt's twenty-year capital case, challenges the assumption that all Americans have the right to unbiased justice. With personal narratives and exclusive footage, the film frames the judicial and emotional responses to this chilling crime and implications surrounding Hunt's conviction against a backdrop of class and racial bias in America. Mr. Hunt will be available for questions and comments regarding the film following its screening.

On the last day of the conference, Friday, September 28, 2007, the National Legal Aid and Defender Association will present its program on the current status of the right to counsel in Michigan. The program will be held from 2 p.m. to 4 p.m.

## Policy Conference

The Biennial Criminal Law Section Policy Conference was held over the weekend of June 15-17, 2007 in Mackinac. Together with a distinguished panel of professionals, conference attendees examined issues related to parole reform, and drafted the following policy statement:

The Criminal Law Section of the State Bar of Michigan promotes and endorses truth in sentencing, transparency and fairness in the parole process, and recommends that the following principles be adopted.

Once a prisoner comes within the jurisdiction of the parole board, the prisoner should be released upon eligibility unless, at a hearing subject to appeal, it is determined that the inmate has failed to cooperate in his rehabilitation, or there is a substantial likelihood that he will commit another crime while on parole.

A prisoner serving a sentence pursuant to MCL 791.234(7) shall be entitled to a personal interview with a member of the parole board each time they may be considered for parole.

For all prisoners within the jurisdiction of the parole board, parole guideline scoring shall be prepared. The guidelines shall be based upon objective factors predictive of a risk to re-

offend and a reviewable written or recorded record of any such hearing shall be made sufficient to be reviewed on appeal consistent with this policy recommendation.

We recognize the difficulty of parole consideration for sex offenders and that separate or additional risk assessments may be necessary for these offenses.

We support the existing standard that departures from the parole guidelines for or against parole shall be based upon substantial and compelling reasons.

We fully support the principle that a prisoner who receives a finding of no interest or a denial of parole should be entitled to appeal the decision. The basis for appeal shall include: that the grounds for denial were not substantial and compelling, that the parole guidelines were erroneously calculated, or that the decision rested on material misinformation. For the last two grounds, the prisoner must exhaust administrative remedies prior to any appeal.

Conditions of parole should be limited to those that are reasonably necessary for public safety and shall be individually tailored to the parolee's circumstances.

We further urge state government to provide adequate resources and funding to ensure that the quality and intensity of supervision for offenders is significantly increased. Manageable caseloads for probation and parole officers ensure that sanctions impose *in lieu* of incarceration are meaningful, that the likelihood of recidivism will be decreased, and that the chances for successful rehabilitation will be increased.

As a tool to assist in the implementation of a more successful parole system, we fully support the concepts embodied in the Michigan Prisoner Reentry Initiative not specifically in conflict with this policy.

Nothing in this policy recommendation is designed to reduce or eliminate the rights of crime victims as set forth in the Crime Victims Rights Act.

For further information about the policy conference, please contact Charles Marr at 248-596-1599.