

**THE FLORIDA BAR
CRIMINAL LAW SECTION
EXECUTIVE COUNCIL MEETING
BOCA RATON, FLORIDA
JUNE 20, 2008**

1. CALL TO ORDER

Chair Ann Finnell called the meeting to order at 9:20 a.m. on Friday, June 20, 2008.

ROLL CALL

Members present: Ann Finnell, Donnie Murrell, Sheryl Lowenthal, David B. Rothman, Less Hess, Susan Hugentugler, Stanford Blake, Lewis Buzzell, Robert Dillinger, Douglas Duncan, Ivy Ginsberg, Jeffrey Harris, Abe Laeser, Calianne Lantz, Joseph Lewis, Martin McDonnell, Richard Polin, Lisa Porter, Harvey Sepler, Kenneth Swartz, George Tragos, Larry Turner, William Vose, Lisa Walsh, Michael Weatherby, Paul Zacks.

Also present: Fleur Lobree, Michael Seigel, Lisa Walsh, Angie Zayas, Samantha Ward, Joe DeBelder, Cynthia Imperato, Joel Silvershein, Brian Tannebaum, Richard Hersch, Connie Stewart, and Paige Graham.

Excused absences - Carolyn Snurkowski and Deedee Costello.

2. APPROVAL OF MINUTES

A motion to approve the minutes of last meeting was seconded and approved.

3. TREASURER'S REPORT

Sheryl Lowenthal reported that there was \$320,000.00 in the treasury. Abe Laeser moved to approve the treasurer's report, was seconded and approved.

4. REPORTS OF STANDING COMMITTEES

a. Communications - Newsletter

Ivy Ginsberg reported that she will be turning the reins over to Carolyn Snurkowski and requested that articles be submitted for publishing in the newsletter.

Paige Graham, Florida Bar staff liaison, reported that the website is a work in progress and encouraged the members to provide comments and feedback regarding additional information. The website is www.flacsl.org. There was some discussion regarding

changing the name to crimlaw.org, however, it was brought up that the current name was voted upon. Paige is writing the content of the website and would like add messages from the various chairpersons. It was suggested that a committee be created to bring the website to fruition, Ivy Ginsberg agreed to serve on this committee.

b. **Education/CLE**

Ken Swartz and Sheryl Lowenthal reported that CLE is doing well and hit top numbers with video and CD sales. The Masters of DUI program had very good attendance. There will be a Criminal Law Update seminar in Tampa in the fall, and a forensics seminar and advanced evidence are coming up.

c. **State Budget Issues**

Donnie Murrell reported that to help address the state's budget crisis, a budget summit will be held and that the ABA is funding a reporting company to put together a report. The first meeting will be July 17, in Tallahassee and then once a month after that in order to review and revise the report to generate a finished report by January to give to the legislature. Hank Cox will be chairing the meeting.

Bill Vose discussed where the money will come from and gave some suggestions as to how to word or phrase funding issues. Judge Blake suggested recruiting lawyers for the legislature who had a better understanding of the criminal justice system and the judicial branch in regards to budget issues.

David Rothman gave a short report from the past president's meeting regarding the judiciary and reported regarding finding an independent source of revenue for the judiciary and suggested that the section needs a lobbyist. He reported that the national average for the criminal justice system was 1.2% of the state budget; while Florida was 0.7%.

Jeffrey Harris discussed the use of a political action committee.

Abe Laeser made a motion to hire a lobbyist. A discussion was then held. Paul Zacks inquired what services they could give the section and how much it would cost. Ivy Ginsberg reported that it had been previously voted on to spend \$25,000 on a lobbyist. George Tragos inquired as to what issue the lobbyist would

address and would it be the single issue of judicial funding. David Rothman and Larry Turner joined in the discussion.

George Tragos suggested that the motion be amended to read that the lobbyist concentrate on the single issue of getting more funds for the criminal justice system to include the public defenders, state attorneys and the judiciary. Abe Laeser accepted the amendment.

Judge Blake had some suggestions, one of which was to contact Steve Metz and to put together a committee to meet with Steve Metz.

The motion, as amended, was seconded and passed unanimously.

The committee regarding the lobbyist will consist of: George Tragos, Judge Blake, Abe Laeser, Robert Dillinger and David Rothman. The committee is to come up with the names of three lobbyists and funding issues. The committee is to bring their ratings of the lobbyist candidates to the September meeting.

d. **P/PD Program**

Paul Zacks reported that in order to keep expenses down the schedule had been reworked, including elimination of one group, shorter days, shortening the program by one day and streamlining the program. They had already been locked into staying at the Hilton; however, next year they will hold it at a more economical hotel. Several members of the council reported that budget problems were resulting in some State Attorneys' and Public Defenders' offices not sending attorneys to the program. It was also reported that some Public Defenders' offices might boycott the program due to comments allegedly made by one of the program's instructors.

The next issue discussed was the inclusion of attorneys from the Office of Criminal Conflict and Civil Regional Counsel (OCCCRC) in the program. It was discussed that the OCCCRC is a publicly funded agency and they need to be invited to participate in the program. It was suggested that a formula needs to be implemented in order to add their students in for next year. There was further discussion regarding how to add in the OCCRC students and curriculum issues.

Judge Weatherby advised that, like the public defenders and state

attorneys, OCCRC also had budgetary issues. The registration fee is currently \$200 per student and it was suggested to create a \$5-10 thousand dollar scholarship, as opposed to a subsidy, for each side to help the participants.

George Tragos made a motion for 10, \$1,000 scholarships for each side (SAO, PD and OCCRC). The scholarships are to be made by application to Paul Zacks and Jennifer Zedalis with a priority given to the offices that are not able to send any students to the program and to be geographically diverse. The motion was seconded and passed unanimously.

e. **Report on Discovery Deposition/New Legislation**

Marty McDonnell discussed the issue of proposed legislation regarding limiting depositions in third degree felony cases as is done in misdemeanor cases and directed the members to Exhibit C attached to the Agenda. Although the bill died in committee, he suggested that the section take a position against it. In the future it may be necessary for the section to take a position on the issue and potentially discuss it with the lobbyist. Lewis Buzzell observed that there are cost issues involved, mostly regarding the costs of producing transcripts.

Jeffrey Harris made a motion that the Section is philosophically opposed to limiting discovery depositions. After a hand vote was taken, there were 13 in favor and 9 opposed. The motion failed because it did not receive a 2/3 vote.

f. **Ethics Manual Update**

Douglas Duncan and Richard Polin reported that they have completed the update of the prior ten-year old manual and requested a three to five thousand dollar allocation to print the books. Complementary copies will be sent to state attorneys, public defenders and judges. Larry Turner suggested publishing electronic copies or posting them on the Section's website.

Les Hess made a motion for the allocation of the requested dollar amount to print ethics manuals. The motion was seconded and passed unanimously.

g. **P/PD Funding.**

Judge Porter reported that \$42,225 has been raised. The goal is

\$100,000 to be reached by June 2009, however, under the grant, an extension can be requested. Judge Porter recommended targeting large firms for contributions. Judge Porter resigned as P/PD fundraising chair, and anyone interested in taking over the project should speak to Donnie Murrell.

h. **Capital Cases Committee.**

It was reported that OCCCRC capital counsel is disproportionate from circuit to circuit. Sheryl Lowenthal observed for example that Miami has reached out to outside counsel. These outside counsel are paid \$30,000 per case, per year to be first chair and to train OCCCRC attorneys, who would then serve as second chairs. She raised the question of whether this would create a conflict of interest, with OCCCRC attorneys pushing cases for trials in order to gain needed experience.

Paul Zacks suggested that a committee be created to reach out to the OCCCRC and coordinate issues with them. He also suggested that the Section extend an invitation to the OCCCRCs to attend the next meeting.

i. **Oxford Program Nominations**

Members were directed to Exhibit D.

j. **Membership and Nominations Committee**

The Officer slate passed unanimously.

Chair: Donnie Murrell
Chair-Elect: Carolyn Snurkowski
Secretary: Sheryl Lowenthal
Treasurer: Judge Lisa Porter

Slate #1 - Ivy Ginsberg made a motion to accept slate #1. After seconding, the motion passed unanimously:

Judge Stanford Blake
Les Hess
Abe Laeser
Harvey Sepler
Paul Zacks

Slate #2 - put to a ballot vote with council members voting for six.

Marjorie Alexis (private attorney) (unable to attend - emergency hearing)
Joseph De Belder (public defender)
Robert Dillinger (public defender)
Cynthia Imperato (Judge)
Joel Silvershein (state attorney)
Brian Tannebaum (private attorney)
Samantha Ward (public defender)
Michael Weatherby (Judge)
Richard Hersch (private attorney)
Barry Krischer (state attorney) (not present)
Angie Zayas (state attorney)

The following were elected to the board: Bob Dillinger, Judge Cynthia Imperato, Joel Silvershein, Brian Tannenbaum, Judge Michael Weatherby, Richard Hersch.

k. **Liaison Reports**

i. Rules Committee - Bill Vose reported that the next meeting had a 120 page agenda to work through.

ii. Jury Instructions - Judge Weatherby reported concerns regarding a civil judge request for a rule regarding video trials. The proposed rule regarding video trials and video witnesses could possibly present confrontation issues in criminal cases. It went to Civil Rules/Rules of Judicial Administration, but it was not considered.

George Tragos made a motion that the Section review the proposed Rules of Judicial Administration and register the Section's positions on rules that are adverse, such as video trials/witnesses. The motion was seconded and passed unanimously.

iii. Appellate Rules - Calianne Lantz submitted a report regarding recent proposals in the Appellate Rules Committee.

iv. Young Lawyers - No report.

5. The following awards were presented:

- a. Ivy Ginsberg received a plaque for her work on the newsletter.
- b. Connie Stewart received a beautiful vase for 29 years of service.

- c. Donnie Murrell presented Ann Finnell with an award for her service to the Section as Chair.
- 6. Paige Graham was introduced as Connie Stewart's replacement as the Section's Florida Bar Staff Liaison.
- 7. Meeting was adjourned at 11:45 a.m.