

**The Florida Bar
Criminal Law Section
March 4, 2011 Meeting
Fort Lauderdale, Florida**

Minutes (as Amended on September 23, 2011)

1. The meeting was called to order at 12:03 p.m.
2. Attendance
 - Present in Fort Lauderdale (*see* attached sign-in sheet)
 - Present via phone (*see* attached sheet)
3. Previous meeting's minutes were approved (as corrected by Mr. Silvershein).
4. Treasurer's Report
 - No Treasurer's report was made
5. Regarding a proposal whether to support a position of the Health Law Section, the Council voted 17-4 not to get involved.
6. Regarding sentencing reform, the Council was advised that there is nothing to do now save track the pending legislation.
7. Regarding a proposal whether to support a position of the Animal Law Section (presented by Greg Morton, Chair of that section) regarding proposed legislation to extend judicial powers in domestic violence situations, after considerable discussion – including whether to “not support” the legislation, whether to “oppose” the legislation, or whether to take no action/position at all, ~~the Council voted 10Y-11N on the question whether to take no action/position (motion made by Mr. Silvershein; seconded by Ms. Hugentugler). Thereafter, the Council voted 15Y-9N to oppose the legislation (motion by Mr. Tannebaum; seconded by Mr. Turner).~~ The Council voted 10Y-11N to oppose the legislation (motion by Mr. Tannebaum; seconded by Mr. Turner). Thereafter, the Council voted 15Y-9N on the question whether to take no action/position (motion made by Mr. Silvershein; seconded by Ms. Hugentugler).

8. Committee Reports

-- CLE

-- Mr. Catalano made a presentation regarding the DUI seminar, including a plea for reduced fees for government attendees. Presentation included means by which to keep our seminar distinct (in timing and substance) from FACDL's BBT. The notion of holding the seminar at a university site was also considered, with CLE Chair Fingerhut to contact FIU and Mr. Laeser to contact Nova.

-- Selig Goldin

-- Mr. Sepler presented the Council with two (2) nominees: Bill White (nominated by Ms. Finnell) and Hank Coxe (nominated by Mr. Turner). Discussion was had and a vote taken, resulting in Mr. Coxe's selection by acclamation (on motion by Mr. Tannebaum; seconded by Ms. Snurkowski).

9. The Florida Governance Study (agenda item No. 7) was removed from the agenda.

10. The matter of State pensions was then discussed – specifically, whether the Section should take a position to support “full funding” (as moved by Mr. Silvershein; seconded by Mr. Sepler); whether the Section is in need of a lobbyist in this regard (which the Council had budgeted for previously); and whether to include police, corrections, secretaries, and the like (noting that some, like corrections, have union support), whether we should not make a distinction between criminal justice employees and the public sector, or whether we should remain focused on those whom we uniquely serve. The motion was amended (by Mr. Sepler) to “oppose any reduction in the funding of the retirement program for State Attorneys, State Public Defenders, State Judges, and their immediate staff”; accepted by Mr. Silvershein. The question then arose (by Mr. Buzzell) whether the Council's proposal would include vested former state employees (who may in the future become state employees once again). On motion (by Ms. Snurkowski), the proposal was amended to include the language, “involved in the criminal justice system,” to then read thusly: “To oppose any reduction in the funding of the retirement program for State Attorneys, State Public Defenders, State Judges, their immediate staff,

involved in the criminal justice system.” A vote was then called and the matter passed, unanimously. The matter was then raised what to do regarding issues beyond pension benefits, for example, medical benefits. On motion (by Mr. Sepler; seconded by Mr. Polin), and passing by acclamation, the language was amended to read “to oppose any reduction in the funding of the retirement and benefit program.”

11. The matter of rule-making legislation was then discussed. After considerable discussion, on motion (by Mr. Sepler), it was determined, by acclamation, that a committee be appointed (comprised of Mr. Zacks, Mr. Laeser, Mr. Vose, and Mr. Fingerhut) to draft language to be circulated to the Council stating the Section’s position, including that it is our desire to be part of the process.
12. The matter of the Florida Supreme Court’s Innocence Commission was then discussed – specifically, the feasibility and desirability of mandatory of statewide guidelines vis-a-vis eyewitness identification. Ms. Snurkowski, a Commission member, stated that the Commission is working hard to make things better and welcomes insight from all sources – making this an opportunity for the Section to have meaningful input. A committee was formed (comprised of Judge Blake, Mr. Zacks, Mr. Harris, Mr. Richardson, and Mr. Fingerhut) to formulate the Section’s possible response, in light of the next Commission meeting (slated for March 21st in Tallahassee).
13. The matter of the Section’s holding a reception at the Annual meeting of The Bar – on our own, or in conjunction with another section – was then discussed.
14. The matter of a request by St. Thomas Law School and its desire to publish a criminal law edition of its law review was then considered (as presented by Mr. Musto).

-- The secretary had to leave the meeting at 1:30 p.m.

-- Minutes were to be completed by Ms. Hugentugler in his absence.

Respectfully submitted,

H. SCOTT FINGERHUT

Secretary

CONTINUATION OF MINUTES OF MEETING HELD March 4, 2011, (as taken in the absence of Secretary Fingerhut by Susan Odzer Hugentugler)

St. Thomas Law Review Request

Tony Musto, Professor and Director of Community Outreach at St. Thomas Law School, along with Professors Jessica Fonseca-Nader and Gary Kravitz, and Law Review Editor in Chief Michael Vera addressed the Executive Council. They propose re-opening relationship with the Criminal Law Section. Mr. Musto said that the St. Thomas Law Review, under the direction of Professor Amy Ronner and when Jessica Fonseca-Nader was the editor of the law review, published a criminal law edition for two years in the 1990's and had very good participation from the section. During 2009 and 2010, the law school published two criminal law editions on its own. In one of those editions, Justice Cantero authored an article on why Florida's death penalty statute is unconstitutional. The law school will be having symposium in April on the topic of when law and politics collide.

The law school is committed to having one criminal law issue per year with the next edition expected in the fall.

Mr. Musto stated that the criminal law section's role in the proposed partnership would be simply to line up 4 to 7 authors per year. Mr. Musto suggested that the section has many members who want to be published and this would give them the opportunity. The law review is looking for a fall publishing date, but that is subject to negotiation and could be changed. Also, the section could apply to do a symposium with CLE. The law school would be available as a venue without charge to the section. Also, the law school would be committed to putting a significant amount of money towards supplying copies of the criminal law edition to members of the section. Mr. Musto stated that this would be a good benefit for members of the section and the start of a beautiful friendship between the law school and the criminal law section. There would be no contracts, just an understanding.

Abe Laeser asked if the edition would be limited to criminal law and new Supreme Court opinions. Also, will the students do case notes? Mr. Vera stated that either the students or the authors could do the case notes.

Jeff Harris asked about anticipated costs to the section. Mr. Musto stated none except for any CLE programs. The law school does not want to solicit authors; that would be the job of the section.

Calianne Lantz asked what the status of copyright on the articles would be.

Chair Sheryl Lowenthal asked Mr. Musto if they had a facility to host a Bar CLE. She noted that the section is looking for ways to attract local APDs and ASAs to CLE courses and keeping costs down would help us charge less. Mr. Musto responded affirmatively.

Harvey Sepler noted that it is difficult sometimes to find authors. Chair Lowenthal agreed

stating that we have had difficulty finding articles for our newsletter.

Mr. Musto stated that they were just asking if the section would approve the concept. He feels that a steady flow of articles should be forthcoming from law professors.

Caliane Lantz suggested doing a joint e-mail letter. Harvey Sepler asked if it will say St. Thomas Law School in conjunction with the Criminal Law Section. Mr. Musto said the logo of the Criminal Section could be used. Mr. Vera said that the authors could be listed on the law school's web site as well.

Abe Laeser is confident that authors could be found. Lawyers have egos and would want to be published.

The council agreed, by acclamation, to a relationship with St. Thomas Law School. Mr. Musto asked that a contact person be identified to him. The St. Thomas contingency left the room.

David Rothman observed that we should be careful that by entering into an agreement with St. Thomas, that we are not excluding other groups. Despite what Abe says, he thinks finding authors is difficult.

The meeting was adjourned at 1:51p.m.