

**The Florida Bar  
Criminal Law Section  
January 20, 2012 Meeting  
Fort Lauderdale, Florida and Via Teleconference**

**Minutes**

1. The meeting was called to order at 12:05p.m.
2. Attendance- Present in the Fort Lauderdale Office of the Attorney General or otherwise participating via teleconference or videoconference were the following council members: Hon. Lisa Porter, Susan Hugentugler, David Rothman, Hon. Stanford Blake, Douglas Duncan, Ann Finnell, Jeffrey Harris, Richard Hersch, Les Hess, Hon. Cynthia Imperato, Abe Laeser, Calianne Lantz, Richard Polin, Scott Richardson, Harvey Sepler, Joel Silvershein, Carolyn Snurkowski, Kenneth Swartz, Brian Tannebaum, George Tragos, Larry Turner, William Vose, Hon. Samantha Ward, Paul Zachs, and Hon. Angelica Zayas. Also present during the meeting was Board of Governors liaison, Michelle Suskauer. Excused absences were Sheryl Lowenthal, Hon. Robert Dillenger, and Martin McDonnell. Not present were the following council members: Scott Fingerhut, Donnie Murrell, Michael Weatherby and Jennifer Zedalis. Also present at the meeting were Andrew Abel, managing editor, and Lauren Kearney, senior articles editor of the St. Thomas Law School Law Review.
3. Chair Porter opened the meeting by congratulating council member Angelica Zayas on her recent appointment to the circuit bench in Miami-Dade County.
4. **Upon motion made by Abe Laeser and seconded by Calianne Lantz, the amended minutes of the March 4, 2011, meeting, amended to conform to the changes discussed and approved at the September 23, 2011, together with the minutes of the September 23, 2011, meeting, were unanimously approved. Upon motion by Joel Silvershein and seconded by Calianne Lantz, the minutes of the December 2, 2011, phone conference meeting were also approved by acclimation.**
5. Committee Reports:
  - A. Capital Cases – No report
  - B. Legislative – Stan Blake reported that Marty McDonnell will inform the council on relevant legislative proposals once the Legislature convenes.
  - C. Selig Goldin – Harvey Sepler reported that letters seeking nominations by March 15 have been sent out to members of the council, that e-blasts will be sent to members of the section, that he had contacted the Public Defenders Association, that Susan Hugentugler had contacted the Prosecutors Association, that Doug Duncan is in contact with the FACDL, and that Cynthia Imperato will be contacting the Judges Association.
  - D. P/PD – Paul Zacks reported that letters will be sent out soon to faculty members, the dates and places have been reserved, and we will probably retain Patti Williams who

is retiring from the university. We can discuss paying Patti on an hourly basis during our June meeting. Discrepancies on costs of the program with the University of Florida need to be discussed with Paige.

- E. CLE – Calianne Lantz reported that the Advanced Federal Practice seminar was well received and that Michael Catalano was putting together the Masters of DUI CLE. Ms. Lantz, who is the representative from our section to the CLE committee of the Bar, reported that Chair Porter had put forth a proposal to amend the policies of the Bar to allow prosecutors and public defenders to benefit from discounts in the same way as employees of Legal Aid. The chair of the CLE committee, Candace Preston, appointed a subcommittee, which includes Ms. Lantz, to draft language accordingly. Their subcommittee met telephonically and drafted language, however Terry Hill of the Bar could not attend. Once the subcommittee approves the language, the proposal will go to the full CLE committee, and if approved there, will be put before the Board of Governors.
- F. Membership – Chair Porter reported that the committee had discussed ways to boost membership, but that nothing was ready to report at this time.
- G. Communications – Chair Porter reported that the trial lawyers section has a professor on retainer to provide a newsletter to their members. It is believed they pay the professor around \$2,000 per year. Since we have had problems getting a newsletter out, perhaps we should also consider retaining a professor to take charge of our newsletter, to get content, articles, and otherwise write it. We could approach the same professor, or another, to solicit articles for a newsletter to go out two to three times a year. George Tragos questioned why the section should hire someone when the bylaws provide for the incoming chair to supervise the newsletter. It was also noted that the communications subcommittee has not met, yet. The Chair noted that while the bylaws indicate that the chair-elect is the editor, historically the section has struggled getting a newsletter, either written or electronic, out. People are busy and it is critical to get some sort of communication out to our members. The Chair stated that we have had a line item in our budget to get out a printed newsletter, however we have not been expending those funds. We could instead use that money to retain someone to put together the content of an electronic newsletter, which wouldn't cost anything to disseminate, and have it approved by the communications committee. George Tragos reiterated that the chair-elect should have some work to do. Stan Blake responded that putting together a newsletter is a very time consuming proposition and if that were the condition to being chair of the section, we may not find people willing to be chair. Les Hess agreed with George Tragos' sentiments, however noted that the problem of getting out a newsletter remained and that we should pay someone to do so. Les Hess further noted that the bylaws prohibit the section from paying a member of the section for work. Either we amend the bylaws, or hire someone who is not a section member. Nevertheless, it is important to our section to have a newsletter.

**Angelica Zayas made a motion, seconded by Stan Blake, to authorize the Chair and Chair-elect to make inquiries as to who could be retained to put together a newsletter for the section and to find out how much it would cost.** Discussion on the motion ensued. Some thought the idea of outsourcing a newsletter was a bad idea. It was suggested that we contact the 20 state attorney and public defender offices for inclusion of local news, such as legal issues, retirements, etc. in the newsletter rather than just having a law review type of publication. Jeff Harris noted that the section, for whatever reason, has not had a newsletter in five years and that we should explore options with the ultimate content of the newsletter to be approved by the communications committee. Paige Graham informed the council that the trial lawyers section pays a Nova Law School Professor \$1,500 per year to solicit content for a newsletter, distributed quarterly, and which consists of about 18 pages. A roll call vote was taken. **The motion passed 13 to 9 to have the Chair or Chair-elect explore retaining a professor to solicit content for a newsletter and to find out the cost.** Paige Graham noted that the trial lawyers section has never had any problems with the content of their newsletter and that it could be accessed through that section's web site.

H. Long Range Planning – No report.

6. Legislative Position on Comprehensive Review of Death Penalty- The Chair informed the council that Marty McDonnell had written a letter on behalf of the section, as approved at the last meeting in December, regarding the legislative position of the section on the death penalty. Correspondence received by the Chair was also made known to the council and attached to the agenda.
7. St. Thomas Law Review Project – Abe Laeser reported that he met with Kyle Teal of the St. Thomas Law Review and agreed that the purpose and value of a joint effort in getting out a law review publication dedicated to criminal issues would be to make it available to section members. St. Thomas does not have the budget, however, to send it to all members of the section. Abe Laeser would like the section to set aside an amount of money necessary to send out copies to section members along with a letter that the publication is a benefit of their membership in the section and also notifying them that St. Thomas is planning on publishing an annual law review edition dealing with criminal law issues. At about 2000 members, Abe estimates that it would be no more than \$6,000 for printing and mailing the final product of the joint St. Thomas/Criminal Law Section Law Review to each member of the section. Thus, Abe Laeser recommends the appropriation of \$6000 for such project. George Tragos and Richard Polin questioned the electronic availability of the publication to keep costs down. Andrew Able, managing editor of the law review stated that they have never produced an electronic version without having first published a hard copy. He stated that their publisher provides a pdf version of the law review after a hard product is completed. Abe Laeser thinks that sending a hard copy of a law review would be good to obtain and retain new members since many are weary of e-mail blasts. **Brian Tannebaum moved to appropriate up to \$6000 for the publishing and dissemination of the joint St. Thomas/Criminal Law Section Law Review Edition to members of the section. The motion was seconded by Harvey Sepler.** In response to questioning, Andrew Able stated that the law school already sends

out an annual criminal law journal, but that the new publication would be a collaborative effort with the Criminal Law Section where the section would help solicit articles and have creative input as well. He added that the law school paid for the production and mailing of about 400 copies of the journal. Thus, the section would bear the cost of the additional copies. Andrew Abel further stated that the \$6000 was a best estimate because it was not yet known how many pages the issue would contain. The cost would also be affected by whether the publisher mails the journal or whether they delivered the volumes to the section to mail out. Treasurer David Rothman noted that the section had the funds available and Paige verified that as of December, there was about \$331,000. Though some prefer electronic versions, other members of the section acknowledged liking hard copies. The importance of providing electronic versions to attract younger members was discussed and some agreed that getting a hard copy of a publication not available to others was something special rather than just being able to access it on a website. This would be something to show members that they get for their money. David Rothman suggested asking members if they wanted either a book or electronic version to save money on mailing costs. The Chair suggested sending a letter and postcard with the book to members to return to indicate their preference for either a hard or electronic copy next year. **The motion passed by a vote of 20 to 3.**

Regarding the content of the law review edition, Andrew Able reported that, so far, five definite articles would be included. One article will be by Third District Judge Kevin Emas concerning the Fourth Amendment consequences of attaching GPS tracking devices to vehicles. Scott Fingerhut will be authoring an article about judicial reluctance to impose sanctions upon unethical prosecutors. There will also be articles about lethal injection, police brutality, and about the recent argument before the Supreme Court of Florida on the *mens rea* requirement for strict liability crimes. An article about privacy issues and Facebook is going to be written for inclusion in next year's publication. Andrew Able noted that the trend is still to supply a hard copy of a law review publication for those with subscriptions. The section logo and a forward by the chair of the section could be included in the publication as well.

Abe Laeser suggested that costs will be less if the publisher mailed the books directly to the members. The Chair noted that the concept was to have some volumes available at the St. Thomas Law School and Criminal Law Section receptions at the annual meeting of the Bar in June.

8. Council of Sections Report- Susan Hugentugler reported that in November, a telephonic meeting was held of the Council of Sections for their input on the concept of having a non-voting government lawyer member on the Board of Governors. Despite strong support from Government Lawyers Section, City and Local Government Section, and Appellate Lawyers Section, the idea of having such a non-voting member was not approved by the majority. The argument against was primarily on the basis that if a government lawyer was approved, then other practitioners would want a member on the board as well. The issue will ultimately be decided by the Board of Governors.
9. Treasurer's Report –Treasurer David Rothman reported that the single biggest issue is how to increase our membership since section dues is where we receive the bulk of our money. George Tragos wants to make sure we have enough money set aside to give new

members a copy of the law review publication when they join, however Paige noted that she is not notified of when new members join the section and would not know how to accomplish such a task. She will look into seeing if a running list could be created. When asked about the investment allocation of the section funds, Paige stated that the funds are invested by the Bar and that the amount fluctuates daily. David Rothman stated that our funds are where they should be.

10. Annual Reception – The general consensus was that last year’s reception was well attended, even though the location was somewhat remote. The cost was \$4500, the food was very good and better than other receptions. The Chair noted that good receptions get good reputations and this is only the beginning. **David Rothman moved to have a reception again this year and the motion was seconded by George Tragos.** Paige Graham, however, noted that \$7500 had already been allotted for the annual meeting and that such amount also includes the modest breakfast at the council meeting. **The motion was therefore withdrawn.**
11. Paige Graham asked the Council to consider now if they want to keep Patti Williams as the facilitator at the P/PD training program since she will be retiring from the university soon. **Abe Laeser moved to allocate \$3000 to pay Patti Williams to continue her work with the P/PD training conference. The motion was seconded by Jeff Harris. The motion passed unanimously.**
12. The Chair announced that the next physical meeting will be held on June 22 in Orlando at the Gaylord Palms Hotel.
13. **The meeting was adjourned at 1:20pm upon motion made by Brian Tannebaum, seconded by Jeff Harris.**