

**2019 CDAM ANNUAL MEETING  
WITH A  
2018 ANNUAL REPORT REVIEW**



**Presented February 28, 2019  
Auburn Hills, Marriott**

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CDAM's Board of Director's invites you to read our 2018 Annual Report. As with most non-profit organizations, much of the work is done by volunteer members, and for those who volunteered their time, energy, and expertise, CDAM is most grateful. A significant achievement, not noted in the condensed committee reports detailed below, was the Board of Directors and Education Committee Summit held in the Spring of 2018. This gathering of more than thirty stakeholders spend six hours discussing changes, brainstorming ideas, and developing programs in response to Michigan Indigent Defense Commission Standard 1 mandating continuing legal education for public defenders and assigned counsel. Lastly, CDAM's Strategic Plan, which details goals and objectives for the organization, is reviewed and updated annually.

## AMICUS COMMITTEE REPORT (STANDING)

The Amicus Committee is comprised of chair John R. Minock and committee member Stuart Friedman. Committee members review requests for amicus briefs submitted to CDAM and write briefs on behalf of CDAM. They also recruit other attorneys to write briefs on behalf of CDAM. Highlights for the year include:

*People v. Dawn Marie Dixon Bey*, MSC 156746, MCOA 331499 *People v. Eric Lamontee Beck*, MSC 152934, MCOA 321806  
CDAM filed an amicus brief by Jacqueline McCann, and was granted five minutes of oral argument. The issues on which the MSC granted mini-orals were:

(1) to what extent the sentencing guidelines should be considered to determine whether the trial court abused its discretion in applying the principle of proportionality under *People v Steanhouse*, 500 Mich 453 (2017); and (2) whether, when a jury convicted the defendant of second-degree murder, the trial court abused its discretion in applying the principle of proportionality if it either (a) sentenced the defendant according to an independent finding that she committed first-degree murder; or (b) departed upward from the sentencing guidelines for second-degree murder based on facts established by a preponderance of the evidence that the jury did not find were established beyond a reasonable doubt.

*People v. David Ross Ames*, MSC 156077, MCOA

CDAM filed an amicus brief, by Brad Hall and Gaetan Gerville-Reache . The issues on which the MSC granted mini-orals were: Whether MCL 769.34(10) has been rendered invalid by this Court's decision in *People v Lockridge*, 498 Mich 358 (2015), to the extent that the statute requires the Court of Appeals to affirm sentences that fall within the applicable guidelines range "absent an error in scoring the sentencing guidelines or inaccurate information relied upon in determining the defendant's sentence." See *People v Schrauben*, 314 Mich App 181, 196 (2016).

*People v. Kevin Patrick Kavanaugh*, MSC 156408, MCOA 330359

CDAM filed an amicus brief, by Stuart Friedman. The issues on which the MSC granted mini-orals were:

(1) what deference should be accorded to the trial court's factual findings where a recording of events under consideration is available to an appellate court; (2) what evidence may be considered in determining whether there was clear error in the trial court's factual findings; and (3) what standard of review is to be applied under such circumstances.

*People v. Shawn Loveto Cameron, Jr.* MSC 155849, MCOA 330876.

CDAM filed an amicus brief, by Anne Yantus. The issues on which the MSC granted mini-orals were:

(1) whether court costs under MCL 769.1k(1)(b)(iii) should be classified as a tax, a fee, or some other category of charge; and (2) if court costs are a tax, whether the statute violates the Separation of Powers Clause, Const 1963, art 3, § 2, or the Distinct-Statement Clause, Const 1963, art 4, § 32.

*People v. David Allen Snyder.* MSC 153696, MCOA 325449

CDAM filed an amicus brief, by Brad Hall and Gaetan Gerville-Reache. The issues on which MSC granted mini-orals were:

(1) whether the requirements of the Sex Offenders Registration Act (SORA), MCL 28.721 et seq., amount to "punishment," see *People v Earl*, 495 Mich 33 (2014), see also *Does # 1-5 v Snyder*, 834 F3d 696, 703-706 (CA 6, 2016), cert den sub nom *Snyder v John Does # 1-5*, 138 S Ct 55 (Oct 2, 2017); and (2) whether the defendant's conviction pursuant to MCL 28.729 for failure to register under SORA is an ex post facto punishment, where the registry has been made public, and other requirements enacted, only after the defendant committed the listed offense that required him to register, US Const, art I, § 10; Const 1963, art 1, § 10.

## AWARDS COMMITTEE REPORT

In 2018, the Awards Committee selected Margaret Sind Raben as the *Right to Counsel* honoree. Also, for only the second time in our organization's history, CDAM's *Extraordinary Service Award* was bestowed. The honoree was past-president and longtime volunteer, Jill Leslie Price. Both honorees were recognized at CDAM's Annual Awards Dinner. New in 2018 was the *Exceptional Achievement Certificate* given to a group of individuals for noteworthy service in their efforts with Chaldean immigration cases. This group of nineteen included attorneys and non-attorneys who were recognized during CDAM's Spring Conference. The response was so favorable that it was recommended that this type of acknowledgement continue at future conferences. The committee was chaired by Harry Mihas, with Nicole Smith and Stuart Friedman serving as committee members.

## BYLAWS COMMITTEE REPORT (STANDING)

Chaired by Marshall Tauber, the committee was not tasked with making bylaw recommendations, but is on standby if needed.

## COMMUNICATIONS

The Communications Committee, chaired by Harry Mihas, is responsible for member technology communication. Assisting the committee is Cathy Gentry, CDAM's Communications Director hired in August of 2018. This additional support has been pivotal in increasing CDAM's presence on various social media platforms and in direct member email communications. The committee is in need of volunteers to assist with writing articles and helping to promote CDAM events and activities on various criminal defense forums.

## EDUCATION COMMITTEE REPORT (STANDING)

CDAM's Education Committee was reorganized in 2018 after a review of the amount of work needed to achieve future training objectives. As such, Spring Conference, Summer Conference, and Fall Conference Committees were created, along with a Skills Training Committee responsible for Trial College, Evidence Boot Camps, and other skills training programs. Newly created was a Training Development and Presentation Committee responsible for vetting and recommending new prospective speakers.

- ◆ **Conferences.** The Spring Conference had 220 registrants and realized a profit of \$5,593.00. New this year, in response to CDAM's Strategic Plan, was Friday afternoon breakout sessions. The response to this new format was overwhelmingly favorable. The Fall Conference, held at Boyne Mountain, was the first conference under MIDC Standard 1. There were 229 registrants and the continuation of Friday afternoon breakout sessions was just as positive as in the spring.
- ◆ **Summer Training.** CDAM's 2018 Summer Training, held at Otsego Club in Gaylord, had 27 registrants, the lowest number since the training program started. Of note: CDAM received a number of phone call inquiries about whether this training could be used to accrue CLE credits under MIDC Standard 1, which was not possible and could be one reason for the low numbers. The training, *Bail Reform and Advocacy*, included a hands-on component where attendees worked on oral and written bond litigation under the guidance of faculty. Evaluations were superb.
- ◆ **Trial College.** Trial College, in its second year in Bay City, continued to be a popular venue for location, accommodations, and affordability. This was the third year of CDAM's 2.5-day Trial College with the topic of "*Examinations*." Thirty-six students were enrolled. The lower number was due to three scholarship recipients cancelling at the last minute and CDAM being unable to fill those spots with other students. New this year was the implementation of half-day evaluations. This afforded faculty the opportunity to get immediate feedback from students, and overall, evaluations were excellent. Trial College also began training two new prospective faculty members.
- ◆ **Partner Trainings.** CDAM continued to build good relationships with bar associations and form mutually beneficial partnerships. In December, CDAM partnered with the Macomb County Bar Association to begin training their assigned counsel.
- ◆ **Skills Training 101.** This new hands-on 16-hour skills training program was developed at the request of the Michigan Indigent Defense Commission. The general outline was formulated during a breakout session at the CDAM Board and Education Committee Summit and planning continued throughout the year. Final implementation will take place in FY 2018-2019.
- ◆ **Education Committee Pro Bono Hours.** CDAM Education Committee members, conference faculty, and Trial College attorneys contributed more than 325 volunteer hours to ensure CDAM's educational programs were a success. This does not include hours not reported by faculty, or other programming including Evidence Boot Camp and Summer Training. Many members gave up their weekends, evenings, and office hours to contribute their time and talent to ensure CDAM's educational programming. Their commitment is pivotal the success of CDAM.

## FINANCE REPORT (STANDING)

CDAM Year End: October 1, 2018 – September 30, 2018

### INCOME

At 100% through the fiscal year, YTD Operating Income was \$78,256.00 or 93.52% of budget. YTD Restricted Income was \$78,256 or 97.88% of budget. YTD Total Income was \$176,483 or 95.89% of budget.

### EXPENSES

YTD Operating Expense was \$92,975 or 94.32% of budget. YTD Restricted Expenses was \$91,276 or 100.53% of budget. Total Expense was \$184,251 or 97.30%. YTD Expense over Income was \$7,763.00.

### FUND BALANCES

9.30.18

General Fund	\$29,915.00	Escrow Accounts	\$11,157.00
Merrill Lynch Accounts	\$100,000.00	Petty Cash	\$350.00
TOTAL BANK ACCOUNTS: <b>\$141,422.00</b>			

### EXECUTIVE SUMMARY

While no responsible board wishes to govern an organization experiencing a deficit, it should be recognized that this was a transitional year for CDAM. The loss of \$12,000 income from the Lodge Party and Awards Auction, fewer trainings since time and efforts were concentrated on work involved with MIDC Standard 1 – which also included necessitating an increase in staffing levels – and a slight decline membership all attributed to the loss. But, CDAM is financially strong. Fund balances are healthy and Merrill Lynch investment income continued to grow. Once again, CDAM's CPA, Mike Frawley from Yeo & Yeo, presented the 990 and 990T to the Board of Directors. CDAM's public charity support percentage was 93.29%.

## FUND DEVELOPMENT REPORT

◆ **Merchandise.** CDAM continued to order and sell merchandise at events, but in smaller quantities in order to move product so inventory would remain fresh.

◆ **Award Dinner and Auction.** The Annual Awards Dinner and Auction had 110 attendees. The cost of dinner is structured to break even while the auction is profitable. In 2018, the total profit was \$722.00.

### 2018 DONOR RECOGNITION \* Denotes 2017 Donor

#### Spuhler Scholarship \$560

Jacqueline George Joshua Karton\* Richard Stroba

#### Action Fund \$662.26

Barbara Rende\* James J. Williams\* Robert Whims

#### Annual Sponsor and Conference Vendors

Nationwide Interlock – Defender Sponsor\*

Attorney Marketing Resources Boss Image Eugene Butler Private Investigations

Computer Forensics Emma Burcusel, Photographer\* Envista Forensics\*

Mokasoft\* National Expungement Database Center\* State Appellate Defender Office\*

*If you made a donation and your name does not appear on the list, please contact CDAM at 517-579-0533.*

## MEMBERSHIP COMMITTEE REPORT (STANDING)

Membership dues income generated \$60,734.00 against a budgeted amount of \$65,700.00: 92.44% of the budgeted amount. Membership also continued maintained a presence including as a vendor at the State Bar of Michigan annual meeting. CDAM continues to send automatic email reminders to members when they are within 30 days of membership expiration. Thereafter, similar reminders are sent two weeks before expiration, one week before expiration and again on the day of expiration. If there are no responses to the emails, a hard copy is mailed out.

## NOMINATING COMMITTEE REPORT (STANDING)

The Nominating Committee is comprised of CDAM's Past President and one member from District 1, District 2, and District 3. The committee is responsible for oversight and compliance of CDAM Annual Elections, following applicable bylaw provisions.

## **RULES AND LAW (STANDING)**

### **LEGISLATIVE INITIATIVES**

#### **Good Bills that Died**

- HB 4012; evidence obtained in violation of MCL 780.653 is inadmissible in court, but can be used to revoke parole/probation or impeach D's testimony
- HB 4158; Civil Asset Forfeiture
- HB 4648 – 4650; eliminate PBT in certain situations
- HB 4790; expunge up to 2 nonviolent felonies
- HB 4798; expunge multiple crimes arising from single transaction
- HB 4835; same as 4798
- HB 5243 – 5246; process to evaluate competence to stand trial
- HB 5779; civil asset forfeiture
- HB 6026; forensic science commission
- HB 6155 – 6184; human trafficking affirmative defense, etc.
- HB 6455 – 6463, 6502; bail
- SB 52; SOL extension for kiddie CSC
- SB 954 – 956; address confidentiality program

#### **Bad Bills that Died**

- HB 4073; "Gang bill"
- HB 4133; SOL extension for kiddie CSC
- HB 4190; Admissibility of prior acts re: CSC
- HB 4212; Submit to chem breath analysis
- HB 4298 – 4300; video recordings of child interrogations
- HB 4302 – 4304; assaulting court personnel
- HB 4384 – 4385; "Kevin's Law" Child Abuse registry
- SB 80; mandatory urinalysis in accidents that cause death
- SB 261 – 263; "Kevin's Law" child abuse registry
- SB 594, 924; private police agencies
- SB 1245 – 1246; Law Enforcement access to MAPS data

#### **Good (or just decent) (or just less bad) Bills that Made It**

- HB 4427; Police body camera recording release requirements
- HB 4536 – 4538; Expungement of all information in an arrest record when D is wrongly accused
- HB 4613; Trial Court Funding Commission
- HB 5040 – 5046, 5079; elimination of driver responsibility fees\*\*
- HB 5377; Objective Parole
- HB 5806 – 5808; create juvenile mental health court (excepts certain "violent" crimes)
- SB 220; fixes to repeat drug offender statute
- SB 609 – 615, 630; elimination of driver responsibility fees\*\*
- SB 844; extends sunset of CJ policy commission
- SB 871 – 872; SOL extension for kiddie CSC

#### **Bad Bills that Made It**

- HB 4265; give bicyclists 5' when you pass them
- HB 4547 – 4548; lifts sunset on .08
- HB 5407; require D to be present for victim impact statements
- HB 5658; prior acts are admissible re: CSC

## **Nassar Bills**

A bicameral, bipartisan package of bills was negotiated and passed to the Governor that was designed to punish MSU, Larry Nassar, and prevent such actions in the future via these punishments. The SOL extension for Child CSC cases that CDAM carefully negotiated with Senator Bieda – SB 52 – was discarded in favor of SB 871 and 872 (which reflected, mostly, our negotiations on SB 52), which were part of this broader “Nassar” package. The bills that made it all the way to the Governor (and were signed) in this package were:

- HB 5407 (described above, re: victim impact statements)
- HB 5539; sexual assault, abuse, and rape included on OK2SAY
- HB 5658 (described above, re: prior acts are admissible re: CSC)
- HB 5660 (new crime of aggravated possession of child sexually abusive material; includes 5 year MM for someone with multiple convictions hereunder)
- HB 5661; sentencing guidelines for above
- HB 5794; new crime of aggravated production, financing, distribution of child sexually abusive material
- HB 5798; expands definition of “victim” for purpose of impact statements
- SB 871 – 872; described above re: extension of SOL for Child CSC.

## **COURT RULE PROPOSALS**

It was an unusual year when it came to court rule proposals, in that the Committee did not identify any relevant enough to CDAM on which to provide specific comment.

## **EXECUTIVE BRANCH PROPOSALS**

In late May 2018, R&L learned that MDHHS had proposed a revised policy that would prohibit Medicaid providers from employing anyone convicted of a felony in the previous 10 years, or of a misdemeanor in the previous 5 years. CDAM submitted a letter opposing the revised policy.

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“To be an effective criminal defense counsel, an attorney must be prepared to be demanding, outrageous, irreverent, blasphemous, a rogue, a renegade, and a hated, isolated and lonely person...few love the despised and the damned.”

-Clarence Darrow

