

**2018 CDAM ANNUAL MEETING
WITH A
2017 ANNUAL REPORT REVIEW**



**Presented March 1, 2018
Auburn Hills, Marriott**

CDAM's Board of Director's invites you to read our 2017 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, is CDAM's 2017 Strategic Plan. In January of 2017, Molly Flood from the American Bar Association's Division for Bar Services led the board in a day-long strategic planning session. Included on the agenda was the review of member surveys collected two months prior to this gathering. Board members took member comments and suggestions very seriously and have worked diligently over the past twelve months to incorporate ideas and suggestions. The Strategic Plan, which details goals and objectives for the organization, is reviewed and updated regularly. In August of 2017, CDAM brought Molly Flood (ABA) back to Michigan to conduct an anonymous focus group of new CDAM lawyers (as recommended in the Strategic Plan). The responses were helpful as CDAM works on sustaining the future of the organization.

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. The following amicus curiae briefs were filed:

- ◆ CDAM joined an amicus brief in *Lacaze v. Louisiana*, which raised issues regarding juror bias. SCOTUS ultimately remanded the case to the Louisiana Supreme Court for reconsideration, in light of *Rippo v. Baker*, 580 U.S. ___ (2017), where the Court had previously chided a state high court for applying the wrong standard for judicial bias.
- ◆ CDAM filed an amicus brief with the ACLU in *People v. Frederick* and *People v. VanDoorne*. In June, 2017, the Court ruled in Defendants' favor, holding that the police exceeded the scope of the implied license to knock and talk because the officers went to the defendants' homes during predawn hours.
- ◆ CDAM filed an amicus brief in *People v. Steanhouse* and *People v. Masroor*, a followup to *Lockridge*. A majority of the Supreme Court held that *Lockridge* remains the law, and the sentencing guidelines remain advisory.
- ◆ CDAM filed amicus briefs in three Court of Appeals cases involving disputes over attorney fees for appointed appellate counsel, *People v. Czekai*, *People v. Scherzer*, and *People v. Bernard*. The Czekai and Scherzer cases led to a favorable MCOA opinion on appointed counsel attorney fees.
- ◆ CDAM will be filing an amicus brief in *People v. Ames*, MSC No. 156077, which asks whether "*People v. Lockridge*, 498 Mich 358 (2015), rendered invalid that part of MCL 769.34(10) requiring 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.'"
- ◆ CDAM filed an amicus brief in *People v. Elisah Thomas*, where the Supreme Court simply reversed the Court of Appeals, finding that the trial court did not err in dismissing a case due to a suggestive on the scene identification procedure.
- ◆ CDAM filed an amicus brief in *People v. Skinner*, where the Supreme Court is considering whether the decision to sentence a person under the age of 18 to a prison term of life without parole under MCL 769.25 must be made by a jury.

AWARDS COMMITTEE REPORT

In 2017, the Awards Committee selected William Swor as the *Right to Counsel* honoree. The committee was chaired by Stuart Friedman. Committee members were Harry Mihas, Michael Naughton, Jill Leslie Price, and Nicole Smith.

BYLAWS COMMITTEE REPORT (STANDING)

Chaired by Marshall Tauber, the committee was not tasked with making bylaw recommendations, but are reviewed as an on-going process. The committee always welcomes suggestions from members concerning methods and processes that will improve CDAM's governance and provide greater clarity of the governing rules of this organization. Bylaws can be found on CDAM's web page.

COMMUNICATIONS

In 2017, the Communications Committee was combined with the Technology Committee and is co-chaired by Harry Mihas and Michael Naughton. Committee members include Takura Nyamfukudza and Dominic Andriacchi, Jr. The committee is responsible for member and technology communication. The creation of a new website was a major initiative that has a few issues needing to be resolved. 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)

- ◆ **Conferences.** The Spring Conference 185 registrants and realized a loss of \$1,513.27. The Treasurer's Report provides an explanation of this loss. The Fall Conference, held at Boyne Mountain, had 198 registrants and realized a profit of \$453.75. While this amount is modest, it should be noted that in preparation for MIDC compliance, three additional employees were hired and trained to work the conference. Their wages, travel, and hotel accommodations totaled nearly \$2,400.00.
- ◆ **Summer Training.** CDAM's 2017 Summer Training, held at Otsego Club in Gaylord, had 52 registrants, the same number as in 2016. The training was *Motions Win Cases* and included a hands-on writing component where attendees drafted their argument under the guidance of faculty. A profit of almost \$1,032.60 was realized. Evaluations were overwhelmingly positive.
- ◆ **Trial College.** Trial College was moved to Bay City after being in Lansing since the beginning of the program. The Bay City Riverfront Doubletree provided better accommodations, better prices, and a better location. There were 40 students, with two of those registrants from out-of-state: Louisiana and Minnesota. Overall, student evaluations were excellent. This was the second year of CDAM's 2.5 day Trial College with the topic of *"Your Case and Theme: How to Develop Their Trust, Identify Their Story, and Get it to the Jury in Your Opening Statement."* The Education Committee has plans to continue with the modified 2.5 intensive program at least through 2018 with the topic *"Examinations."* Trial College certified two new Trial College faculty members, Victor Mansour and Charlotte Steffen, who had gone through two years of extensive training. Trial College realized a profit of more than \$3,000.00. Those funds remain in the Trial College segregated checking account and helps to fund future scholarship, leaving Spuhler Scholarship funds largely intact.
- ◆ **Evidence Boot Camp.** CDAM held Evidence Boot Camp I and Evidence Boot Camp II in Detroit and Lansing. Evaluations were all excellent and students had positive remarks about the small group hands-on learning opportunity. For both Boot Camps, Detroit had 24 registrants and Lansing had 23 registrants. Revenue for the four sessions totaled \$5,529.93.
- ◆ **Faculty Training.** One all-faculty training was held in Lansing April 22, 2017 with twenty-two attendees. Trial College had two refresher trainings for faculty.
- ◆ **Partner Trainings.** CDAM continues to build good relationships with bar associations and form mutually beneficial partnerships. In October, CDAM provided the Oakland County Bar Association with four hours of CLE training. In April and December of 2017, CDAM partnered with the Macomb County Bar Association to provide a total of seven hours of CLE.
- ◆ **Education Committee Pro Bono Hours.** CDAM Education Committee members, conference faculty, and Trial College attorneys contributed more than 400 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)

YE Operating Income was \$107,330, \$11,370 less than budgeted. This is primarily due to the elimination of the Golf Classic and modest shortfalls in other line items such as #4110 Contributions-General (Lodge Party). Some of these losses were offset by income derived from the Dean Strang Traverse City event which generated \$3,125 more than projected. YE Restricted Income was \$105,947, \$5,947 more than projected. Total Income for the fiscal year was \$213,277, \$5,423 less than budgeted.

EXPENSES

YE Operating Expense was \$104,513, \$15,443 less than budgeted. YE Restricted Expense was \$92,523, \$6,023 more than budgeted. The overage is in line item #8000 Spring Conference. This is primarily due to 1.) hiring/training three additional conference staff in preparation for MIDC Standard 1 which could increase conference attendance significantly; and 2.) an unfilled commitment to raise \$2,000 to offset honoraria for keynote speaker. YE Total Expense was \$197,035, \$9,421 less than budgeted.

INCOME/EXPENSES

CDAM Operating Income over Expense was \$2,818
CDAM Restricted Income over Expense was \$13,424
Net Income \$16,242

FUND BALANCES 9.30.17

General Fund Account	\$89,047.00
Escrow Account	
Action Fund	\$2,310.00
Trial College	\$7,969.00

Spuhler	\$18,397.47
Conference	\$19,803.00
CD (liquidated)	\$35,101.00
Total Bank Accounts	\$172,627.00

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 95.51%.

2017 DONOR RECOGNITION

* Denotes 2016 Donor

General Fund \$250

Stuart Friedman

Spuhler Scholarship \$645

Joshua Karton *	Leticia Perez	Kurt Peterson	Margaret Sind Raben
Marjorie P. Russell	Richard Schaaf	Karl P. Numinen *	

Action Fund \$1,379.64

Stacia J. Buchanan	Rhonda Ives *	Barbara Rende	James J. Williams *
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General Fund InKind

Bel Lago Vineyards *	Blackrocks Brewery	Emma Burcusel *	Frank Eaman *
Elizabeth's Chophouse	Everyday Wines	Fried Saperstein Abbatt PC	Melissa Higby
Hotel Indigo	Rhonda B. Ives *	Sandy Kivela	Lisa Kirsch Satawa
Elizabeth LaCrosse *	Harry Mihas *	Karl Numinen *	Park Place Hotel *
Margaret Sind Raben *	Staybridge Suites	Brian Watkins	

Conference Sponsors and Vendors

Nationwide Interlock – Defender Sponsor *			
Bear River Health at Walloon Lake	Emma Burcusel, Photographer *	Envista Forensics	
Forensic Polygraph	John Wojnaroski, Polygraph *	Mokasoft *	
National Expungement Database Center *	Professional Probation and Parole *	State Appellate Defender Office *	
Sunshine Investigation *			

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

FUND DEVELOPMENT REPORT

◆ **Donations.** One donor contributed \$250.00 to the General Fund; four donors contributed \$1,379.64 to the Action Fund; seven donors contributed \$645.00 to the Spuhler Scholarship Fund. In-kind donations were approximately \$5,750.00 and nine different vendors purchased conference vendor tables.

◆ **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 103 attendees. The cost of dinner is structured to break even while the auction is profitable. In 2017, the total profit was \$6,778.80.

MEMBERSHIP COMMITTEE REPORT (STANDING)

Membership dues income generated \$65,259.00 against a budgeted amount of \$65,700.00: 99.33% of the budgeted amount. Membership worked alongside other committees over the last year on the following projects:

- ◆ Created and printed a membership brochure
- ◆ Created a law school member poster - 100 were printed for distribution by the Communications Committee
- ◆ Created and printed a portable member banner, compliments of Board Member Josh Blanchard, and
- ◆ Reformatted and printed an updated Educational Offering brochure.

Membership also maintained a presence at several recent events. Volunteers represented CDAM at the vendor tables at both the State Bar of Michigan annual meeting and the NACDL conference held in Detroit. Many thanks to those who graciously volunteered their time: Steve Moss, Penny Beardslee, Marilena David-Martin, Mike Steinberg, Lisa Kirsch-Satawa and Bill Swor.

The consensus was that the SBM conference was worthwhile exposure and we should continue our attendance in the future. Between the two events we handed out over 200 CDAM ink pens, added a new member and signed up a fall conference registrant.

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 additional members: one from CDAM District 1, District 2, and District 3 and is responsible for oversight and compliance of CDAM Annual Elections. All applicable bylaw provisions are adhered to during the election process. CDAM has three board vacancies due to three resignations that took place toward the end of 2017. A decision was made to not hold a special election to fill the vacancies, but to wait until the annual election in 2018.

RULES AND LAW (STANDING)

In 2017 and to-date in 2018, the committee has provided input in workgroups, at committee hearings, in one-on-ones with various legislators, and before the Michigan Supreme Court on a number of initiatives. Following is a sampling of the committee's efforts.

- ◆ **Corrections.** Initiatives are afoot to remove restrictions on some licenses for convicted felons. Also, HB 5377 seeks to strengthen presumptive parole by requiring parole denials be for "objective" reasons (as opposed to, "lacks insight," "no remorse," etc.). Also, a recent mental health workgroup report may yield legislation expanding the use and funding of specialty courts and reentry support.
- ◆ **Civil Asset Forfeiture.** HB 5396 (Lucido) would require a conviction prior to forfeitures under Chapter 333 (controlled substances). Committee Co-Chair John Shea testified in favor on February 6, 2018.
- ◆ **Expanding MCL 768.27a.** CDAM opposes HB 4190, which would expand the use of "other act" allegations of CSC in any CSC case, for propensity purposes. At present, after a couple of hearings, the bill still is pending in the Committee on Law and Justice. John Shea testified for CDAM in committee.
- ◆ **Recording of forensic interviews.** CDAM is neutral on HB 4298, 4299, and 4300 which would require all forensic interviews to be recorded, and which would expand the use of the interviews to petitions by a person to be removed from the child abuse central registry. PAAM sought to have added to the bills the right to admit the forensic interview at PE, in return for not opposing. We opposed that. As the bills stand now, the interview can be introduced at PE but only if the interviewee testifies as well.
- ◆ **Bail reform.** Rep. David LaGrand (D—Grand Rapids) still hopes to drop bills on this. John Shea has been participating for CDAM on this issue.
- ◆ **Expungement.** Word is that there may be support for legislation that would provide for automatic expungement of a limited number of convictions after 7-10 years. Other legislators (LaGrand, Stephanie Chang, Leslie Love) are proposing amendments to the expungement statute, to permit relief based on number of incidents rather than number of counts, not count felony-firearm where there's another substantive count—this is a subset of the multiple-offenses-from-one-incident problem, and permit expungement of traffic offenses.
- ◆ **CSC statute of limitations.** Nothing new on this. Rules and Law Co-Chair Peggy Raben sits on a workgroup that is studying this issue in relation to minor victims. Many states have eliminated S-Ls in such cases, and MI is deciding if it should join them, and if so how far to go.
- ◆ **Implied Consent.** SB 80 has been pending for a long time. Through the Senate a year ago, it would expand application of "implied consent" to MVAs resulting in death where police have reasonable cause to believe that a particular driver caused the accident. It wouldn't require the cop to have reasonable cause to suspect alcohol/drug impairment, but before the test result could be used in evidence the court would have to find such cause. CDAM opposes all implied consent laws on principle and have opposed this one. There is a question as to whether House Judiciary ever will take it up.
- ◆ **Proposed MCR 6.425; Anders briefs.** SADO/MAACS sponsored court rule amendments relevant to indigent defendants' rights to appeal and appointed counsel. CDAM supported those efforts, and those amendments have been adopted.
- ◆ **MRE 404(b) amended as CDAM wanted.** The MSC has adopted amendments to MRE 404(b) that require the intent-to-use notice be provided at least 14-days in advance of trial, and in writing unless excused for good cause. (Following CDAM, SADO, and SBM Criminal Law Section comments.) The new was effective 1/1/18.

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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

