

**MICHIGAN DOMESTIC AND SEXUAL VIOLENCE  
PREVENTION AND TREATMENT BOARD**

**MEETING MINUTES  
September 20, 2013**

**APPROVED**

**Members Present:**

Dr. Cris Sullivan, Chair  
Sgt. Yvonne Brantley  
Jeffrie Cape  
James Fink  
Hon. Elizabeth Pollard Hines  
Kathryn Hoover  
Hon. Jeffrey Sauter

**Staff Present:**

Debi Cain, Executive Director  
Patsy Baker  
Michael Bobbitt  
Michelle Bynum  
Donna Cornwell  
Debbie Felder Smith  
Carol Hackett Garagiola  
Julie Giddings  
Sarah Heuser  
Gail Krieger  
Mary Lovik  
LaShawn Thurman, Board Secretary  
Joyce Wright

**Guests:**

Deidre Ford - Prosecuting Attorneys Association of Michigan  
Kathy Hagenian - Michigan Coalition to End Domestic and Sexual Violence

**Welcome and Introductions**

Chair C. Sullivan convened the September 20, 2013 Michigan Domestic and Sexual Violence Prevention and Treatment Board meeting at the Department of Human Services, Grand Tower Building in Lansing, Michigan at 2:08 p.m. Introductions were made and a welcome extended to guests.

**BOARD CONSENT**

Review of agenda; approval of June 21, 2013 meeting minutes.

**MOTION: Moved by J. Sauter to approve the September 20, 2013 agenda and to approve the June 21, 2013 meeting minutes. Seconded by E. Hines. Motion carried.**

## **CHAIR'S REPORT**

C. Sullivan congratulated J. Sauter on receiving the PAAM Frank J. Kelly Distinguished Service Award for his many years of service.

K. Hoover informed the Board that on August 12, 2013, she and staff members J. Wright and L. Rogers visited the Women's Huron Valley Correctional Facility. K. Hoover reported on the visit and shared that the Domestic Violence Committee of the National Lifers Association had heard about the MDSVPTB during a visit paid to them by Safehouse. That visit prompted a letter written by a prisoner who is currently serving a life sentence for killing her abusive husband. Marilyn Stevens, Director of the Women's Center at UM facilitated the meeting with the committee. K. Hoover explained that the women were accountable for their actions and their key message is to prevent other women from going through their experience. The committee wanted to know what preventive measures were in place and gave suggestions. The committee also wanted to thank the Board for all of the work it is currently doing to help victims of domestic violence.

## **EXECUTIVE DIRECTOR'S REPORT – GENERAL OVERVIEW OF WORK TO DATE**

D. Cain thanked M. Bobbitt for his service as the Board secretary and welcomed her new Senior Executive Management Assistant, L. Thurman. D. Cain also updated staff about the Board office move at the end of October/early November from the 5<sup>th</sup> floor to the 6<sup>th</sup> floor. During this transition, both phone and email access will be limited.

D. Cain explained that the Legislature put into effect a Child Advocacy Center fund, which comes from criminal fees which go into the fund annually at a rate of approximately \$900,000. Any nationally accredited child advocacy center in Michigan can apply for funding. The legislation states that there has to be an annual audit. On February 1, 2013, the DV Board should have sent the first audit report to the Legislature. DTMB has since supplied auditor staff to assist the Board with that legislatively required audit requirement. The cost of these auditors to the Fund is not yet known.

D. Cain suggested that the DTMB auditors could roll the first two reports together and submit last years and this year's on February 1, 2014; or we can get the first report done by October 31, 2013 and get the second year in place for February 1, 2014.

**Motion: Moved by J. Sauter to support requesting the first report from the auditors by October 31, 2013 and the second report as legislatively required by February 1, 2014. Motion seconded by E. Hines. Motion carried.**

D. Cain informed the Board that the Board/State of Michigan has been awarded a Safe Havens: Supervised Visitation and Safe Exchange grant, which will allow continued program operations in Kent County, Washtenaw County, and Saginaw. The award will provide \$650,000 over 3 years. Board staff member D. Martinez is the grant manager.

D. Cain requested that P. Baker overview the Fiscal Year 2014 proposed budget.

P. Baker explained that the Board is currently being charged Other Post Employment Benefits (OPEB) for both State and Special Personnel Services (SPS) employees. D. Cain suggested the Board to request that the Board budget be exempted from the OPEB requirement.

**MOTION: Moved by K. Hoover to request that the Board budget be exempted from OPEB. Motion seconded by Y. Brantley. Motion Carried.**

DHS timelines required Board staff prepare and submit a FY 14 spending plan which included continuation of reductions made as a result of legislative rebasing in FY 13. D. Cain requested Board approval of this budget with the intent of Board staff presenting a more detailed budget to the Board in November. By November staff should have more accurate information on any roll-over dollars from FY 13.

**MOTION: Moved by J. Fink to support the spending plan as submitted and to request a more detailed budget at the November Board meeting. Seconded by E. Hines. Motion carried.**

D. Cain also indicated that attorney Lee Taft will speak at the next Board meeting on October 18, 2013. Board members may feel free to invite a guest or two who may be interested in hearing Lee Taft.

### **Legislative Review**

M. Lovik reported on SB 105-107, which would permit DNA collection from persons arrested for felonies.

**Motion: Moved by J. Sauter to support. Motion seconded by K. Hoover. Motion Carried.**

D. Cain reported on HB 4915, which would extend the sunset allowing funds from the Crime Victim Compensation fund to be used for the statewide medical trauma system.

**Motion: Moved by J. Sauter to express the believe of the Board that the Crime Victim Compensation Fund was established to support crime victim services, and to express the Board's disagreement in concept with using crime victim rights funds for anything else. Motion seconded by Y. Brantley. Motion Carried.**

M. Lovik reported on HB 4911, a re-introduction of HB 5449'12, which would prohibit tracking of individuals using GPS technology in cellular phones, and forbid law enforcement officers from installing tracking devices on vehicles without a warrant.

**Motion: Moved by J. Cape to withdraw the Board's April, 2012 position on HB 5449'12, and to instruct staff to re-assess HB 4911 to account for the lead agency's concerns. Motion seconded by K. Hoover. Motion Carried.**

M. Lovik reported on HB 4968, which would grant the Michigan Department of Corrections increased access to nonpublic records under MCL 769.4a.

**Motion: Moved by Y. Brantley to support. Motion seconded by C. Sullivan. Motion Carried.**

M. Lovik reported on HB 4839, which would immunize crime victims from liability for disclosing information about convictions that have been set aside.

**Motion: Moved by J. Fink to support the concept of removing criminal penalties for victims who divulge information about a conviction that has been set aside, and to recommend striking in its entirety subsection (5) of the bill imposing criminal penalties for such disclosures. Motion seconded by J. Cape. Motion Carried.**

M. Lovik reported on SB 254, which would impose stricter standards for parental consent waivers.

**Motion: Moved by K. Hoover to instruct staff that if this bill passes both legislative chambers, the Board wishes to express concern to the Governor's office about the effect of more restrictive standards on access to abortion by victims of incest and other forms of sexual abuse.**

**Motion seconded by J. Sauter. Opposed by J. Fink. Motion Carried.**

Judge E. Hines and M. Lovik reported on the recommended response to HB 4694-4697 by a workgroup convened by the Board at its June 21, 2013 meeting, and updated Board members on amendments to these bills that passed the House of Representatives on September 19, 2013. These bills would authorize the establishment of mental health courts.

**Motion: Moved by C. Sullivan to adopt the following recommendation in response to the introduced versions of the bills:**

The MDSVPTB supports the concept of "problem solving" courts focused on the unique circumstances of specific criminal offenders, such as domestic violence perpetrators, offenders who are veterans, and offenders with substance abuse or mental health issues. Recognizing that domestic violence perpetrators may have concurrent mental health issues, the Board offers the following comments to HB 4694 – 4697, which would authorize courts to establish mental health court programs:

1. The standard for admission to mental health court in HB 4694 (page 1, lines 4-9) is extremely broad. It could include offenders with diagnosable mental health conditions that are not the impetus for their purposeful choices to exercise coercive control over their intimate partners by criminal means. Although these offenders should receive the mental health treatment they need, their "mental disorders" should not excuse them from accountability for criminal conduct. Moreover, treatment for these offenders' "mental disorders" will deter future criminal behavior and promote victim safety only if it is informed and accompanied by interventions that concurrently address the choice to use criminal and other means to control their intimate partners. Such a response requires that all professionals participating in a mental health court program, including prosecutors, defense attorneys, judges, probation officers, and mental health professionals, have an understanding of the dynamics of coercive control and its relationship to mental health issues. Absent this understanding, treatment modalities that stress mental health conditions as the source of coercive, controlling criminal behavior can give rise to the following unintended consequences:

- a. They send a message to policymakers and the public that coercive, controlling behavior is a manifestation of mental illness, rather than a strategic choice. This message undermines public policies seeking to impose accountability on perpetrators of coercive control generally.
  - b. They may increase the danger to offenders' partners by creating a false impression that the controlling behavior will stop once the offenders' mental health conditions are addressed.
  - c. They potentially absolve offenders from accountability for the choices they have made.
2. The terms "mental disorder" and "co-occurring disorder" in HB 4694 (page 1, lines 4-9) are not defined in Michigan statutes, and so may be susceptible of manipulation by offenders seeking to escape accountability for their crimes. If mental health court resources are to be expended on persons other than the severely, persistently mentally ill, these terms should be more clearly defined.
  - a. The Board recommends replacing the term "mental disorder" with the term "mental illness," as it is defined in the statutes governing Veterans Courts, MCL 600.1200(f).
  - b. The Board recommends substituting the term "substance abuse" for the term "co-occurring disorder."
3. Regardless of the state of their mental health, certain "violent offenders" should not be admitted to mental health courts because their behavior presents a serious danger to crime victims and others in their communities. The Board recommends amending the definition that appears in HB 4694, page 4, lines 2-5, as follows:
  - a. Adopting the definition of "violent offender" that appears in the statutes governing Veterans Courts, MCL 600.1200(m).
  - b. Including in the definition of "violent offender" offenders who are currently charged with or convicted of offenses involving the use of coercive control against a spouse or former spouse, an individual with whom the offender has or has had a dating relationship, or an individual with whom the offender has child in common.
4. If the definition of "violent offender" is not amended to exclude offenders whose crimes involve the exercise of coercive control against an intimate partner, domestic violence service provider programs receiving funding from the MDSVPTB should be included among the suggested participating community agencies in the HB 4694 provision governing the memorandum of understanding establishing a mental health court (page 4, lines 19-21). Inclusion of domestic violence expertise will help to promote appropriate justice system and therapeutic responses in cases involving these offenders. See MCL 600.1062(2) and 600.1201(2) for similar provisions in Veterans and Drug Treatment Courts.
5. The Board recognizes that "domestic violence" may encompass criminal acts against the perpetrator's household members that do not involve the use of coercive control against an intimate partner. MCL 400.1501(d). Like intimate partners, victims of these crimes may be at heightened risk of re-victimization due to the perpetrator's physical proximity to them, and/or the perpetrator's familiarity with their daily routines. To protect these victims, the Board recommends:
  - a. As is the case with the statutes governing Veterans Courts (MCL 600.1205(4)) and Drug Treatment Courts (MCL 600.1068(4)), the rights of crime victims under the William Van Regenmorter Crime Victim Rights Act should be specifically recognized.

- b. As is the case in the foregoing existing statutes, crime victims should be permitted to give input on the advisability of admitting an individual to a mental health court program, by way of a written statement, or by other appropriate means.
6. HB 4696 states that “any statement or other information obtained as a result of participating in assessment, treatment, or testing while in a mental health court is confidential and is exempt from disclosure under the Freedom of Information Act” (page 4 lines 25-27 – page 5, line 1). HB 4695 states that for offenders whose participation in mental health court is terminated or who fail to successfully complete the mental health court program, “all records of the proceedings...shall remain closed to public inspection and exempt from public disclosure” (page 6, lines 8-11). The Board recommends clarification of these provisions to protect the privacy of therapeutic records, but to ensure that court proceedings remain open to the public (especially to crime victims) as in other criminal matters. The information presented during proceedings in open court can be critical to victim safety planning, especially in cases involving domestic violence. For example, it may be critical to safety for the victim to be alerted that the offender is not participating in treatment.

**Seconded by Y. Brantley. Motion carried.**

**Further moved by J. Sauter to oppose provisions that would allow mental health courts to expand opportunities for discharges and dismissals beyond existing law by way of agreement in the Memoranda of Understanding establishing these courts.**

**Seconded by J. Fink. Motion carried.**

Board members acknowledged that they had an opportunity to review a list of other bills of interest to the Board’s constituency that had been introduced since the Board’s June 21, 2013 meeting.

**PUBLIC COMMENT:** No comments.

**ADJOURNMENT:**

**Motion: Moved by Y. Brantley to adjourn the meeting. Motion seconded by J. Cape. Motion Carried.**

**The meeting ended at 4:46 p.m.**

Respectfully submitted,  
LaShawn Thurman