

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

**MEETING MINUTES
September 19, 2014**

***** APPROVED *****

Members Present:

Jeffrie Cape
Jim Fink
Hon. E. Libby Pollard Hines
Dr. Cris Sullivan, Chair

Members Absent:

Hon. Jeffrey Sauter
Sgt. Yvonne Brantley

Staff Present:

Michelle Bynum
Debi Cain
Celeste Colton
Julie Giddings
Carol Hackett Garagiola
Sarah Heuser
Gail Krieger
Mary Lovik
Karen Porter
Lore Rogers
LaShawn Thurman

Guests:

Kathy Hagenian – Michigan Coalition to End Domestic & Sexual Violence
Melissa Horste - Senator Carl Levin's Office
Mary Keefe - Michigan Coalition to End Domestic & Sexual Violence
John Lazet - Dept. of Attorney General
Sara Thornton - Wayne State University
Stacey Westra - State Court Administrative Office

Welcome and Introductions

Chair C. Sullivan convened the September 19, 2014 Michigan Domestic and Sexual Violence Prevention and Treatment Board meeting at the Library of Michigan – Lake Superior Room – Lansing, Michigan at 2:21 p.m. Introductions were made and a welcome extended to guests.

BOARD CONSENT

Review of agenda; approval of the June 13, 2014 meeting minutes.

MOTION: Moved by L. Hines to approve the September 19, 2014 agenda and the June 13, 2014 meeting minutes. Seconded by J. Fink. Motion carried.

CHAIR'S REPORT

C. Sullivan called attention to the 2015 Board calendar. All of the meetings will be held at the Library of Michigan – Lake Superior Room, with the exception of the November 14, 2014 Board meeting, which will be held at the Grand Tower.

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

D. Cain provided an update on the Attorney General's (AG) Office - Sexual Assault Cold Case Unit. Attorney General Schuette held a press conference on 9/14/14 in Kalamazoo, MI to announce that a serial rapist was captured and arrested.

D. Cain announced that the MDSVPTB was awarded the Grants to Encourage Arrest (GTEA) grant.

D. Cain informed the Board of a sexual assault training video that was developed by our staff members G. Krieger, L. Rogers, and S. Heuser in collaboration with MSU sexual assault researcher Dr. Rebecca Campbell. The video was presented at the PAAM annual conference in August and was well received. The video will be released publicly in October 2014 on YouTube.

D. Cain provided an update that the 2015 DHS budget has been approved and the Governor has again waived the OPEB (Other Post-Employment Benefits) for the Board. The 2016 DHS budget is in process and the OPEB waiver for Boards is expected to be approved in that budget as well.

D. Cain stated that the MDSVPTB Resource Center has seen a decline in usage. As a result, MDSVPTB has been working with the MCEDSV and has decided to close the Resource Center but will keep the digital library, named *Overdrive* that will be administered by the MCEDSV office.

D. Cain indicated that the Board has received the MSHDA Emergency Solutions Grant (ESG) funds, in addition to Emergency Shelter funds that were previously administered by the Salvation Army. The DV comprehensive grants were amended to include the new dollars for FY '15. A workgroup is being convened to review the formula specifically as it relates to the MSHDA & Emergency Shelter funds.

Legislative Review

M. Lovik provided information on proposed revisions to the Michigan Sentencing Guidelines developed by the Council of State Governments Justice Center (CSG). On Aug. 7, 2014, the Michigan Law Revision Commission sent the proposed revisions to interested stakeholders, requesting public comment. The Board discussed and responded to the following revisions in the CSG proposal:

- a.) Amend the code of criminal procedure to permit felony offenders who have not been convicted of a prior felony to obtain discharge and dismissal.

Motion: Moved by J. Cape to oppose the CSG proposal dated Aug. 7, 2014 to permit felony offenders to obtain a discharge and dismissal, based on the following General Principles:

- **Perpetrators of felony crimes involving domestic violence, sexual assault and stalking tend to be serial offenders whose behavior has escalated to serious levels. Many of these offenders have committed multiple, sometimes uncharged crimes against their intimate partners and others. Deferral, discharge, and dismissal proceedings are not appropriate for felony perpetrators of domestic violence, sexual assault, and stalking because they do not provide adequate accountability, and put their victims and the general public at risk.**
- **Sentences for felony perpetrators of domestic violence, sexual assault, and stalking**

should not be more lenient than sentences for misdemeanants convicted of similar, less serious offenses. Absent compelling circumstances, any statutory disproportionality in sanctions between similar felony and misdemeanor crimes should be addressed by way of more stringent felony sanctions rather than by more lenient misdemeanor penalties.

Seconded by J. Fink. Motion carried.

In adopting the foregoing General Principles, the Board acknowledged that a blanket prohibition on discharge and dismissal proceedings in felony cases involving domestic violence might result in unintended negative impacts on survivors charged with felonies arising from unlawful acts committed in the course of resisting abuse. Accordingly, the Board stated its desire to revisit the first of the above General Principles at a later time in a more appropriate context.

- b.) Provide statutory mitigating factors to govern judicial discretion in departing downward from a jail or prison sentenced recommended under the revised guidelines.

Motion: Moved by J. Fink to oppose the CSG Aug. 7, 2014 proposal for mitigating factors as written, based on the following General Principle: Mitigating factors incorporated into statutes governing sentencing for domestic violence, sexual abuse, and stalking should focus on the perpetrator's behavior and motivations rather than the survivor's, to avoid blaming survivors for perpetrators' choices to engage in criminal behavior. Such victim-blaming re-traumatizes survivors, and enables perpetrators to escape criminal accountability. In general, the Board believes that mitigating factors are more appropriately addressed at the time of prosecutors' charging decisions. Additionally, the Board believes that legislation regarding mitigating factors is not necessary because judges already have discretion to consider them. Seconded by L. Hines. Motion carried.

- c.) Provide for "probation only" sentences for some assaultive offenses, absent a judicial finding of substantial and compelling reasons to impose jail or prison time.

Motion: Moved by J. Fink to oppose "probation only" intermediate sanctions for felony offenses involving domestic violence, sexual assault and stalking, based on a General Principle that judges should have the full range of sentencing options to sanction felony offenders convicted of crimes involving domestic violence, sexual assault, and stalking on a case-by-case basis. Further, the Board shares the Michigan Judges' Association concern that the restrictions on jail sentences under the CSG proposal would render victim participation in sentencing hearings meaningless, in violation of their constitutionally-protected crime victim rights. Seconded by J. Cape. Motion carried.

- d.) Provide for predetermined sanctions for probation and parole violations at an offender's initial sentencing by way of "sanction terms" to be used in the event of non-compliance.
Board members noted their opposition to predetermined sanctions for probation and parole violations committed by perpetrators of domestic violence, sexual assault and stalking, based on the General Principle set forth above, stating that judges should have the full range of sentencing options to sanction felony offenders convicted of crimes involving domestic violence, sexual assault, and stalking on a case-by-case basis.

G. Krieger reported on SB 1004, which would create the Sexual Assault Victim's Access to Justice Act.

Motion: Moved by J. Fink to support the SB 1004. Seconded by L. Hines. Motion carried.

G. Krieger provided an update on SB 1036, which would provide for expedited HIV testing for persons charged with sexual assault, upon the request of the victim.

The Board supported the bill's concept at the January 31, 2014 meeting.

Motion: Moved by L. Hines to support SB 1036. Seconded by J. Cape. Motion carried.

L. Rogers provided an update on the S-2 substitute to SB 998, and the Board was presented with a written supplemental analysis. SB 998 will establish a state commission to recommend options for the auditing and tracking of sexual assault forensic examination kits, including creation of an electronic system for victims to access to determine the status and location of their SAKs.

Board previously approved in concept at the June 13, 2014 meeting. Staff recommends that the Board approve the S-2 substitute for SB 998 as written.

Motion: Moved by L. Hines to approve S-2 substitute for SB 998. 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 13, 2014 meeting. No further staff bill analyses were requested.

BOARD ANNOUNCEMENTS:

C. Sullivan informed the Board that the Board is seeking to replace former member K. Hoover.

J. Cape informed the Board that she and a small group of other professionals working in batterer intervention organized a meeting of approximately 25 experts from around the country to explore how best to articulate their shared beliefs and the research demonstrating the effectiveness of gender informed batterer intervention programming, and to respond to critiques of that programming. This meeting was held September 18-19 in Ann Arbor.

C. Sullivan informed the Board that MSU will be taking more of a role in preventing relationship violence. The One Love foundation will be visiting MSU and will be piloting some new programs/toolkits to provide to other university campuses.

PUBLIC COMMENT:

No comment.

ADJOURNMENT:

Motion: Moved by J. Cape. Seconded by L. Hines. Motion carried.

The meeting ended at 4:05 p.m.

Respectfully submitted,
LaShawn Thurman