

AGENDA ITEM

113 March

DATE: February 15, 2012

TO: Members, Board Committee on Operations
Members, Board of Trustees

FROM: Steve Katz, Chair, Criminal Law Section
Pam Wilson, Director, Section Education & Meeting Services

SUBJECT: Proposed District Attorney Candidate Debates Sponsored by
the State Bar Criminal Law Section

EXECUTIVE SUMMARY

The Executive Committee of the Criminal Law Section of the State Bar voted unanimously to pursue the regular sponsorship of formal debates among candidates for certain elective countywide and statewide offices, specifically: District Attorney, Attorney General, and Public Defender (where applicable). For its first effort in this regard, the Criminal Law Section would like to sponsor one or more debates among the individuals seeking the office of Los Angeles County District Attorney, elections for which have been calendared for June 5, 2012 and, if necessary, November 8, 2012.

BACKGROUND

The Executive Committee firmly believes that such events are consistent with, and in furtherance of, the Criminal Law Section's primary responsibility: to inform and educate the public towards the preservation and improvement of the justice system in California, with particular regard to those whose lives are involved in, or affected by, the administration of criminal justice. The proposed debates are an ideal means through which to accomplish that purpose. As a nonpartisan statewide entity comprised of prosecutors, defense attorneys, and bench officers, and whose existence is dedicated to the world of criminal law, the Criminal Law Section of the State Bar is uniquely qualified to establish a continuing series of election year debates throughout California as elections involving law enforcement –related candidates approach.

The Executive Committee expects that the Criminal Law Section's standing and reputation will be enhanced significantly by the sponsorship of such debates. Public debates among law enforcement –related candidates for elective office will serve to promote the Criminal Law Section broadly throughout California on a continuing basis, calling broad-based attention to the services that the State Bar and the Criminal Law

Section each provide as well as to their purpose and neutrality as organizations. The members of the Executive Committee further anticipate that the membership of the Criminal Law Section will experience a meaningful growth in membership through the exposure brought by the debates.

DISCUSSION

The Executive Committee of the Criminal Law Section has discovered a very exciting opportunity to sponsor a debate this year among the final two candidates for the office of Los Angeles County District Attorney's Office. This year's campaign is the first open race for District Attorney in 48 years – the only time since 1964 that an incumbent Los Angeles County District Attorney has not sought re-election. And, as fate would have it, the Los Angeles County Bar Association – which might, in other campaign years, have been interested in sponsoring one or more debates among candidates for this race – is effectively precluded from doing so in the 2012 election year, as one of the announced candidates is a recent past-president of the Los Angeles County Bar Association who has been endorsed for District Attorney by a number of its present-day leaders.

The Executive Committee of the Criminal Law Section fully appreciates that its impartiality in this endeavor is absolutely paramount. While its responsibility to be evenhanded and neutral – and, as importantly, to appear so at every turn – is daunting, such a threshold for fairness is also readily achievable.

No member of the Executive Committee, or anyone else, who has endorsed, publicly supported, contributed to, or is or has ever been socially acquainted with either or both candidates will be permitted to assist, in any capacity, in the sponsored debates. Additionally, participation in the planning or administration of the program will be denied to any person who is even suspected of being partial to one of the candidates – a stricter standard than that dictated by California's Code of Judicial Canons in determining whether a judge or appellate justice should recuse himself or herself from a case.

The questions that will be posed to the two candidates who emerge as contenders for the general election for Los Angeles County District Attorney will be carefully drafted by the members of the Criminal Law Section Executive Committee's debate subcommittee. As a preliminary rule, each question must be unanimously agreed upon, in substance and wording, by each member of the subcommittee before it will be made available for use at the debate. General principles of fairness will be applied so as to ensure that each of the two final candidates is asked equally challenging and important substantive questions and that each candidate has an opportunity to respond to allegations made, during the debate, by the other candidate.

As a pilot endeavor, the Criminal Law Section would like to sponsor precisely one debate among the two remaining Los Angeles County District Attorney candidates who are on the ballot for the general election in November. Neither the venue for this

debate, nor its moderator(s), nor any media outlet(s) that may be asked to co-sponsor the debate with the Criminal Law Section, has been determined. The debate subcommittee intends to work closely with State Bar staff – and, if necessary and appropriate, the two final candidates for District Attorney – to ensure that the scheduling of the debate, the location of the debate, the individual(s) selected to moderate the debate, any radio and/or television stations that may be asked to broadcast the debate, and any and all seating arrangements for the candidates and for those in attendance do not provide an advantage to either campaign.

The Executive Committee agrees that any part of the proposed debate is subject to revision based on concerns as may be expressed by State Bar staff and the Office of General Counsel.

FISCAL / PERSONNEL IMPACT:

No financial impact to the General Fund.

RULE AMENDMENTS:

None.

BOARD BOOK IMPACT:

None.

RECOMMENDATION

The Executive Committee of the Criminal Law Section seeks approval to sponsor one or more debates among the individuals seeking the office of Los Angeles County District Attorney, elections for which have been calendared for June 5, 2012 and, if necessary, November 8, 2012. The Executive Committee will work closely with staff throughout all phases of this project.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Board Committee on Operations agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Board Committee on Operations recommends that the Board approve the request of the Criminal Law Section Executive Committee to sponsor one or more debates among the individuals seeking the office of Los Angeles County District Attorney, elections for which have been calendared for June 5, 2012 and, if necessary, November 8, 2012; and it is

FURTHER RESOLVED, the Executive Committee of the Criminal Law Section will work closely with State Bar staff throughout all phases of this project.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Board Committee on Operations's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby approves the request of the Criminal Law Section Executive Committee to sponsor one or more debates among the individuals seeking the office of Los Angeles County District Attorney, elections for which have been calendared for June 5, 2012 and, if necessary, November 8, 2012; and it is

FURTHER RESOLVED, the Executive Committee of the Criminal Law Section will work closely with State Bar staff throughout all phases of this project.