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I've been practicing law for over 21 years as an assistant prosecutor, criminal defense attorney, and district court magistrate. While I think that the goal of the new MIDC standards is admirable, I think the application of these standards is really impractical.

As a magistrate, I conduct weekend and holiday arraignments. Forcing us to have an attorney present simply to conduct an arraignment is absurd. From a practical standpoint, if a defendant was arrested on a Friday, I could arraign and release him on a personal bond Saturday morning... but now if there's no attorney available, he may have to sit the entire weekend in jail and not be arraigned until Monday (at the earliest... if it's a three-day weekend or extended holiday, he'll sit longer). And good luck getting any attorney to volunteer to be "on call" in the event they're needed for an arraignment... by the time the police return with warrants and I get over to the police departments and prepare the paperwork, it could be late morning or early afternoon... No one will want to sit around and wait to see if they're going to have to come in, especially on a holiday... and good luck getting the courts to figure out how they're going to pay for this. The courts won't want to pay someone who sat around and twiddled his thumbs all day... and attorneys won't come in and waste their time sitting around if they aren't going to get paid for their time...

With the volume of cases we see on a regular basis, forcing the courts to conduct arraignments with counsel present serves no practical purpose other than to delay to process and tie us up needlessly... The overwhelming majority of the defendants who appear in court receive personal bonds and walk out anyway... The presence of an attorney won't have any bearing on the outcome at this stage. Never mind that we won't know if they need court-appointed counsel until after we arraign them anyway... If they do, we tell them they'll meet with their lawyer by the next court date. In over ten years as a magistrate, I've never encountered a problem with this... so why are we being forced to change the way we do business?

As to the continuing legal education requirements, while I appreciate the need to stay up to date on current changes in the law and refresh my knowledge of other aspects of the criminal justice system, mandating a specific number of hours for those of us who've practiced over 20 years makes little sense. In Oakland County, there are four levels for court-appointed counsel. At my category level, I'm required to complete 10 hours of legal education. Forcing me to complete more educational hours isn't going to make me a better lawyer at this point in my career... As a sole practitioner, between my regular schedule and magistrate schedule I don't have time for more classes... My objective is to make a living and I don't get paid to sit in class...

I already take great pains to ensure that I meet all of the requirements as currently spelled out in the minimum standards. There isn't one thing that I've read in there that is new or unknown to me. Frankly, I work pretty damn hard to make sure I do my best for my clients (whether retained or appointed). I think that the thrust of this indigent criminal defense reform is being pushed on us by people who have no practical knowledge of how the system works and have no understanding of how we interact with our clients. Judging from the lukewarm reception Jonathan Sacks got at last year's CDAM conference when he spoke about the proposed MIDC changes... I know I'm not alone in my thinking.

To be honest, the only change that I think needs to be made is additional funding for appointed counsel. Rather than implement all these ridiculous changes, it would be way more productive to simply work on getting each county additional funds to pay those of us who've been doing this for years for minimal payment. Oakland County only pays us for two jail visits. If we had the money for at least three visits, then we could see our clients more often in order to prepare for court hearings. Also, we don't get paid to file motions... perhaps money could be allocated to help cover motion filings... That's where the focus should be.

I have yet to speak with any fellow court appointed attorneys who are in favor of the new proposed MIDC rules... and I've spoken with many attorneys who've practiced longer than I have. These are very experienced lawyers... and everyone says the same thing: these changes are stupid. Is the system perfect? No. Could it use some tweaking? Yes. But not to the extent being proposed.

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