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**Subject:** AMENDED - Feedback on MIDC Proposed Standards  
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## **FEEDBACK ON THE MIDC PROPOSED STANDARDS - AMENDED**

### **Standard 1**

**Knowledge of Technology:** The Wayne County Prosecutor's office develops in-house experts in technology from their staff who can help their attorneys with digital and electronic presentations. In federal court, the court will pay an expert to assist defense counsel with technology.

MIDC should be working with the courts to provide the equipment so that the court appointed defense bar can use technology in the courtroom as well as require and encourage the court to pay for experts in technology to assist the defense.

In looking over the Wayne County Criminal Advocacy Program topics, there isn't one session on using technology in the courtroom. One of our past Wayne County Bar Criminal Defense Bar Association presidents, Susan F. Reed, along with Attorneys Cliff Woodards, II and Patrick Nyenhuis (with encouragement from Presiding Criminal Judge Timothy M. Kenny) worked tirelessly to try to get us up-to-date with technology in the courtroom. Unfortunately, the equipment was bulky and not easy to use. We need equipment and better equipment that is easier to use. We need someone to assist court appointed counsel during trials like the Wayne County prosecutors have.

**Continuing Education:** I would ask that the MIDC regional managers be required to maintain the same level of continuing education as court appointed counsel. Every MIDC regional manager, if he or she doesn't have any trial experience, should be required to second chair at least 5 trials and handle at least 2 jury trials. Each MIDC regional manager

should have to negotiate, at a minimum, 5 guilty plea cases. They need to feel the stress of telling a client that he or she is being offered a 90 day misdemeanor but the client insists on going to trial on a 20 year Arson case because the client is convinced the boyfriend or girlfriend won't show up for trial. Or, feel the stress of having a client, charged with Possession with Intent to Deliver Cocaine, reject a plea offer of Possession of Cocaine with no objection to 7411 and then preparing for that trial where the police allege the drugs were found on the client.

It does not make sense to have regional managers who have never tried a case developing trial practice standards or creating an assignment system. If they don't have the experience then they need to get the experience. They should be required, during their 2 jury trials, to use the technology that they want us to use in the courtroom.

It is concerning that there doesn't appear to be one attorney on the Indigent Defense Commission who regularly practices and accepts court appointed assignments at Frank Murphy Hall of Justice which is the largest criminal justice system in the State of Michigan. You need feedback from the frontline soldiers – the people who are wading through the mud to fight the cause of justice. There should be at least 2 attorneys who regularly practice and accept court appointed assignments at Frank Murphy Hall of Justice sitting on the Indigent Defense Commission.

Practicing criminal law is largely based on intuition or gut instinct (after extensive preparation). You need attorneys representing indigent defendants who are there every day in the trenches. They should be sitting on the Indigent Defense Commission.

## **Standard 2**

### **A. Timing and purpose of the interview:**

I think requiring that an interview be set within 3 days is something a

bureaucrat does who has never tried a case. The requirement should simply be that the attorney should meet or make contact with the client prior to the first hearing. There have been times that the prosecutor's office has had difficulty locating the discovery. It does not create a good first impression or create trust if you don't have the facts. The fact that other entities have required contact within 3 days holds little weight. It was the American Bar Association that determined that cases should go to trial within 90 days and that denies justice to all parties involved on so many levels and has been used to squeeze pleas out of defendants.

Clients should be advised that there are snitches in the jails and that they should not share their discovery with other inmates who will later claim that the client confessed. Clients should be advised not to write letters discussing their case or defense to the judge. In all my years of practice, I have never seen a letter to the judge help a client. The judge generally does not read the letter but the prosecutor does.

Clients should be advised to not discuss their case over the jail telephone **ever** because they are being recorded.

**B. Setting of Interview:** MIDC should be requesting a seat at the table in helping develop any new court facility in Wayne County. Of particular concern in Frank Murphy Hall of Justice are the prosecution witness waiting rooms where the witnesses can hear everything that is said inside the courtroom. It makes sequestration meaningless. Attorney client meeting rooms are of critical importance and there are none in Frank Murphy Hall of Justice.

**C. Preparation:** Attorneys should be advised to obtain or preserve any 911, police car video or body tapes at the probable cause conference. The deadlines for maintaining those records are short.

### **Standard 3**

MIDC should require courts to obtain telephone numbers for

defendants. Most of the Wayne County assignments do not have telephone numbers for the clients. It is easy information to obtain from the defendants at the time of the initial arraignment.

**Additional thoughts:**

**Compensation:** It has been said that MIDC's purpose is to set standards and not to address compensation. The compensation for attorneys, investigators and experts must be part of this discussion if MIDC wants to attract aggressive and talented attorneys, investigators and experts to represent or assist the indigent population.

I hope these suggestions are helpful.

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