



MICHIGAN INDIGENT
DEFENSE COMMISSION

Michigan Indigent Defense Commission Meeting Minutes
200 N. Washington Square, Lower Level
Lansing, MI 48933
June 20, 2017
Time: 1:00 PM

Commission Members Present

James Fisher, Chair, Judge Thomas Boyd, Thomas Clement (joined at 1:30 pm), Frank Eaman
Derek King (joined at 1:08 pm), Richard Lindsey, Tom McMillin, Shela Motley, Kevin Oeffner,
Michael Puerner, Brandy Robinson, David Schuringa, John Shea, and Gary Walker.

Participating via Telephone

Nancy Diehl

Commission Members Absent

William Swor

Members of the Public Present:

Robert Boruchowitz, Peter Cunningham, Jerry Hardesty, Kay Perry, ~~Bridget Smith~~, Shelli Weisberg

Staff Members Present

Jonathan Sacks, Ashley Carter, Christopher Dennie, Tanya Grillo, Barbara Klimaszewski, Rebecca
Mack, Marla McCowan, Kelly McDoniel, Chris Sadler, Jonah Siegel, Marcela Westrate, and Jana
Mathieu (via telephone).

Bridget Smith, Assistant Attorney General

The meeting was called to order at 1:03 pm.

Public comment

No members of the public wished to comment.

Additions to the agenda

There were no additions to the agenda.

Report from the Chair

Chair Fisher updated the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) about his activities since the last meeting. Chair Fisher noted that the State Budget Office (SBO) had drafted potential changes to the MIDC Act. After discussion with the Governor’s legal counsel, it was decided that there will be discussions this summer with various interest groups to address issues raised.

The Supreme Court appointed Justice Bernstein as its liaison with the MIDC. Mr. Clement will continue as the Chief Justice’s designee on the Commission. Chair Fisher is in the process of scheduling a meeting with Justice Bernstein to discuss the MIDC’s activities.

Executive Director Update

LARA: Standards approval

Mr. Sacks stated that since the 180-day clock started with the May 22, 2017 approval of the first set of standards, things are moving quickly at the MIDC office. The due date for compliance plans is November 20, 2017. Mr. Sacks will continue to meet with the Department of Licensing and Regulatory Affairs (LARA) to finalize the details of the MIDC’s transition to LARA. The transition will be finalized on October 1, 2017.

Legislative Meetings

Mr. Sacks and Ms. Westrate are continuing meetings with legislators. LARA is scheduling the meetings and the Office of Policy and Legislative Affairs attends to learn more about the MIDC.

Personnel

Mr. Sacks welcomed Rebecca Mack to the MIDC as Grant Manager. An Administrative Assistant will start employment July 24. The Policy Associate position is currently posted. Mr. Sacks congratulated Ms. Grillo on being awarded the President’s Award by the Women Lawyers Association of Michigan.

Economic Disincentives or Incentives Standard

Work on the standard continues and the standard will be released at the August meeting. The standard will recommend an hourly rate, and staff is currently working on a recommendation for the Commission’s consideration. The MIDC recently released an attorney compensation survey to determine the costs of representing indigent clients. Mr. Sacks thanked Mr. Eaman and Mr. Puerner for their help.

Compliance Planning

The Regional Managers regularly receive requests for models for compliance and requests for examples of written plans. Mr. Sacks indicated that staff will work to draft these plans and will have them available for the Commission to review in August or in July if an additional meeting is added. Staff is working on a list of allowables and disallowables which will guide systems in creating cost-effective plans. Mr. Sacks discussed the potential for clearinghouse compliance plans with Standards

1 and 3. One potential reason for standard one is assisting with access to trainers. For systems that do not have a public defender office or an assigned counsel system, a clearinghouse compliance plan for standard 3 could increase efficiencies by have a person act as a gatekeeper. North Carolina has a model that MIDC could use. There are issues associated with this plan that will have to be resolved.

Attorney survey release

The Attorney Survey was previously approved for publication by the Commission. Mr. Sacks indicated that it will be released to stakeholders soon, in conjunction with the comment period on the second set of standards.

Grant updates – NLADA mentorship

The work on the MIDC's Social Worker Sentencing Project is on-going. The National Legal Aid and Defender Association (NLADA) chose Marquette as the site for one of its mentorship programs. Meetings are next week, and MIDC will participate.

Staff Report – Field Update and Inventory

Ms. McCowan updated the Commissioners on the work that the Regional Managers have been doing. She discussed the complications with determining local share. She also discussed the obstacles that the Regional Managers have been facing in their respective regions.

Guest Speaker – Professor Robert C. Boruchowitz, Defender Initiative, Seattle University School of Law

Professor Boruchowitz conducted court watching in several counties. He updated the Commission on his observations and potential problems. He discussed the Berrien County system in detail.

Business Agenda

Consent Agenda

Judge Boyd moved that the following four items on the Consent Agenda be approved: the minutes from the April 2017 meeting, longevity pay for Mr. Sacks and Ms. McCowan, DiSC Teamwork for staff members, and out-of-state travel for Dr. Siegel. Mr. Shea seconded the motion. The motion carried; all members participating unanimously supported the motion.

Strategic Plan

The Commission discussed the draft Strategic Plan. Commissioners discussed potential changes.

After discussion, Mr. Eaman moved to table the Strategic Plan and to continue working on it to address changes raised by members of the Commission. Ms. Motley seconded the motion. The motion carried, all members participating unanimously supported the motion.

Internal Operating Procedures (IOPs) and Bylaws

Bridget Smith, the MIDC's Legal Counsel from the Attorney General's office, answered questions about the revised IOPs that were distributed to Commissioners. Commissioners discussed the IOPs and recommended changed.

After discussion, Mr. Eaman moved that the IOPs be approved with the amendments made by the Commission. Mr. King supported the motion. The motion carried, all members participating unanimously supported the motion.

The Commission reviewed the Bylaws, which were amended at a previous meeting. Mr. Walker moved that the Bylaws be adopted as amended. Mr. Eaman seconded the motion. The motion carried, all members participating unanimously supported the motion.

Grants and Compliance Plans

Ms. Mack presented revised documents to the Commission for its review. She described her proposed discretionary grant process and timeline. If this is approved, grant applications will be due to the MIDC by July 28. Applications would be reviewed and presented to the Commission for its approval at the August meeting. Awards would be made out of the MIDC's carry forward funding.

Mr. McMillin moved that the Discretionary Grants Application be approved and published. Mr. Eaman seconded the motion. The motion carried. The following members ~~supported~~ SUPPORTED the motion: Chair Fisher, Ms. Diehl, Mr. Eaman, Mr. Lindsey, Mr. King, Mr. McMillin, Ms. Motley, Mr. Oeffner, Mr. Puerner, Ms. Robinson, Mr. Shea, Dr. Schuringa, and Mr. Walker. Judge Boyd opposed the motion. The motion carried, a majority of members participating supported the motion.

The Commission discussed the Compliance Plan and Cost Analysis Guidelines. Changes were recommended to various sections of the document.

Mr. Shea moved that the Compliance Plan and Cost Analysis Guidelines be approved with the amendments that were discussed, and that the Commission delegate to staff the modification of the paragraph requiring a licensed attorney to manage and supervise attorneys in a managed assigned counsel system. He further moved that the revised document be formally published and distributed. Mr. Eaman seconded the motion. The motion carried; all members participating unanimously supported the motion.

Research Reports

Mr. Walker moved that the Huron County Counsel at First Appearance and the Attorney Caseload Distribution Research Brief both be approved and published. Mr. Eaman seconded the motion. The motion carried, all members participating unanimously supported the motion.

Caseload Request for Proposals

Mr. Sacks, Dr. Siegel, Ms. Westrate, and Mr. Sadler reviewed each proposal that was submitted to the MIDC. Staff members recommend that the Commission approve the RAND Corporation as the vendor to conduct the caseload study.

Judge Boyd moved that the Commission accept the recommendation and approve the RAND Corporation as the caseload study vendor. Mr. Oeffner seconded the motion. The motion carried, all members participating unanimously supported the motion.

Next meeting

Mr. Sacks recommended that a July meeting be added. Several dates were offered and Commissioners indicated their availabilities. The Commission added a meeting on July 31, 2017 at 1:00 PM at the MIDC offices.

Mr. Shea moved that the meeting be adjourned. Mr. Eaman seconded the motion. The motion carried, all members participating unanimously supported the motion.

The meeting adjourned at 4:51 pm.

Respectfully submitted,
Marcela Westrate