



## **Michigan Indigent Defense Commission**

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James H. Fisher, Chair  
Jonathan Sacks, Executive Director

Michigan Indigent Defense Commission Meeting Minutes  
State Bar of Michigan Board Room  
306 Townsend, Lansing, Michigan  
Date: Tuesday February 17, 2015  
Time: 1:00 PM

### **Commission Members Present**

James Fisher, Chair, Joseph Baumann (non-voting member), Thomas Boyd, Jon Campbell (arrived late), Frank Eaman, Richard Lindsey, Shela Motley, Kevin Oeffner, Michael Puerner (arrived late), Brandy Robinson (arrived late), William Swor (arrived late), and Gary Walker.

### **Participating via Telephone**

Nancy Diehl.

### **Commission Members Absent**

David Schuringa and Cletus Smith.

### **Others Present**

Peter Cunningham (State Bar of Michigan), Marla McCowan (State Appellate Defender Office), Kay Perry (Michigan CURE), Christine Piatkowski (private attorney), Jonathan Sacks (Michigan Indigent Defense Commission), Jonah Siegel (State Appellate Defender Office), Dawn Van Hoek (State Appellate Defender Office) and Marcela Westrate (Michigan Indigent Defense Commission).

The meeting was called to order at 1:12 p.m.

### **Roll call**

Chair Fisher asked Ms. Westrate to call roll. Dr. Schuringa and Mr. Smith indicated that they would not be able to attend the meeting.

### **Public comment**

No members of the public wished to comment.

### **Approval of minutes from December open and closed meetings**

Judge Boyd moved that the two sets of minutes from the December meeting be approved. Mr. Lindsey seconded. The motion carried; all members present unanimously supported the motion.

### **Report from the Chair**

Chair Fisher reported that Kimberly Thomas formally resigned from the Michigan Indigent Defense Commission (MIDC or the Commission). John Shea has been appointed by the Governor's office to fill her position.

Ms. Van Hoek and John Nussbaumer contacted Mr. Fisher about working together to obtain funding through the Edward Byrne Memorial Justice Assistance Grant Program (Byrne grant). Chair Fisher is interested in the discussion to change the State Administering Agency (SAA) from the Michigan State Police (MSP) to a broad-based commission to administer those funds.

### **Executive Director report**

Jonathan Sacks gave a presentation that summarized his actions to date and a timeline for future actions. He indicated that he is working with David Carroll and Mr. Carroll will be invited to attend the April meeting. Mr. Sacks would like to have a set of standards before the Commission in April for approval.

Mr. Sacks reviewed the statutory requirements that applied to the development and implementation of standards. Michigan has a set of appellate defender standards that are already promulgated; he expects that MIDC initial standards will follow these.

The Commission discussed Mr. Sacks' plan for standards.

Mr. Sacks discussed staffing the office. He has hired Ms. Westrate who will serve as State Office Administrator/Legislative Director. Marla McCowan will serve as Director of Training, Outreach and Support; and Jonah Siegel will serve as Research Director. Ms. McCowan will begin MIDC employment in March; Mr. Siegel will begin in the fall. Mr. Sacks has requested two additional FTEs from the legislature for the current fiscal year. He anticipates hiring at least one support staff person from the current appropriations.

Chair Fisher updated the Commission on Mr. Sacks' terms of employment. He asked for a motion to support the terms since the Chair was given the authority to negotiate them at the December meeting.

Judge Boyd moved that the terms of Mr. Sacks' employment be approved by the Commission. Mr. Eaman seconded the motion. The motion carried; all members present unanimously supported the motion.

The Commission discussed the office's budget. Chair Fisher asked Mr. Sacks to have a preliminary budget before the members at the April meeting.

The MIDC received its first Freedom of Information Act (FOIA) request. Ms. Westrate discussed the response to the request. She is working on a FOIA policy that will be before the Commission for its approval.

Mr. Sacks gave an overview of the MIDC/State Appellate Defender Office (SADO) proposal that was briefly discussed by Chair Fisher earlier in the meeting. Chair Fisher indicated that he would like the Commission's direction to work with Mr. Nussbaumer on pursuing a change in the SAA for Michigan.

Mr. Walker moved that Chair Fisher be given the ability to work with Mr. Nussbaumer on changing Michigan's SAA from the MSP. Judge Boyd seconded. The motion carried; all members unanimously supported the motion.

The Commission discussed whether its enacting statute provided the authority to administer the funds and programs as proposed by Ms. Van Hoek.

Judge Boyd moved that the Commission send a signal to Governor Snyder that, as previously found by the Governor's Indigent Defense Advisory Commission, a lack of resources and systems for investigators and experts is a real problem in indigent defense. The MIDC supports SADO's request to use Byrne grant funding to address these areas. The MIDC is willing to work with SADO in the future to the extent that the MIDC's statute permits it to do so. Mr. Campbell seconded the motion.

The Commission discussed the motion.

Chair Fisher called for a vote on the motion. The motion passed with 11 yeas, and 1 nay. The following members voted yea: Chair Fisher, Judge Boyd, Mr. Campbell, Ms. Diehl, Mr. Eaman, Mr. Lindsey, Ms. Motley, Mr. Oeffner, Mr. Puerner, Mr. Swor and Mr. Walker. Ms. Robinson voted nay.

### **Bylaws approval**

Mr. Puerner reviewed the Commission's previous action on the bylaws.

Judge Boyd moved that the bylaws be accepted with the following changes:

- The reference to the Executive Order that appointed the Commissioners be removed since the appointments were done via press release;
- Language be added that it is the Secretary's responsibility to assure minutes are taken; and,
- The "Old Business" consent agenda item be relabeled "Unfinished Business".

Ms. Diehl seconded the motion. The motion carried; all members present unanimously supported the motion.

### **Appointment of members to committees**

Members were provided a draft committee list. Chair Fisher would like to make some changes and encouraged members to contact him if they would like assignments changed.

**Adjourn**

The next meeting is April 14, 2015 at 1:00 pm in Lansing.

Mr. Eaman moved to adjourn. Ms. Motley seconded the motion. The motion carried; all members present supported the motion. The meeting adjourned at 2:52 p.m.

Respectfully submitted,  
Marcela Westrate