



MICHIGAN INDIGENT  
DEFENSE COMMISSION

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Michigan Indigent Defense Commission Meeting Minutes  
200 N. Washington Square, 3<sup>rd</sup> Floor  
Lansing, MI 48933  
February 21, 2017  
Time: 1:00 PM

**Commission Members Present**

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

**Participating Electronically**

Nancy Diehl, Gary Walker

**Commission Members Absent**

James Fisher and William Swor

**Members of the Public Present:**

Peter Cunningham, Judge Debra Nance, Kay Perry, Bridget Smith

**Staff Members Present**

Jonathan Sacks, Ashley Carter, Claire Corsey, Christopher Dennie, Tanya Grillo, Kathy Lloyd, Marla McCowan, Kelly McDoniel, Chris Sadler, Jonah Siegel, Marcela Westrate, and Barbara Klimaszewski (via video).

The meeting was called to order at 1:09 pm.

**Introduction of Commission members and guests**

Mr. Sacks introduced staff members and guests. Mr. Puerner introduced and welcomed Assistant Attorney General Bridget Smith who will service as counsel for the Commission.

**Public comment**

No members of the public wished to comment.

**Additions to the agenda**

There were no additions to the agenda.

### **Report from the Vice Chair**

In Judge Fisher's absence, Mr. Puerner served as Chair for the meeting. He reviewed the report Judge Fisher submitted to the Commission members prior to the meeting. As noted in the report, Judge Fisher met with Chief Justice Steven Markman and provided the Chief Justice with background materials about the Commission. These materials were provided to each member for their reference.

### **Executive Director Update**

Mr. Sacks gave an overview of the office's activities since the last meeting. He continues to work with Ms. Smith on internal operating procedures (IOPs) and will have a proposal before the Commission for its consideration in April.

Meetings with the Department of Licensing and Regulatory Affairs (LARA) regarding the transition to that Department are ongoing. MIDC will continue its operations under the Judicial Branch for the current fiscal year and will make the change to LARA formally beginning October 1, 2017. Judge Boyd asked whether the employees would be classified under Michigan's Civil Service Commission. LARA has an agreement with the State Court Administrative Office that the MIDC employees would continue to be Judicial Branch employees prior to transition to civil service.. MIDC is working with LARA's press office and its Office of Public and Legislative Affairs.

Mr. Sacks introduced Tanya Grillo who will serve as the Regional Manager for Oakland, Lapeer, Macomb, and St. Clair Counties. Ms. Grillo is currently working part-time and will begin working full-time in March. The MIDC hired Kathy Lloyd to fill the role of Administrative Assistant. The Grant Manager position has been posted and Mr. Sacks plans to post the Northern Michigan Regional Manager position next week.

The Governor's Executive Recommendation for the 2018 fiscal year included \$2.4 million in appropriations for the MIDC's operations. This is the amount that was approved last year, adjusted for economic increases.

Mr. Sacks is meeting with staff from the Michigan Association of Counties (MAC) and the Michigan Municipal League. These organizations have both been helpful in distributing information to their membership and in connecting local officials with the MIDC's Regional Managers. MAC invited the MIDC to put together a panel for the organization's March conference. Judge Fisher, Mr. Sacks, Mr. Oeffner, and Mr. Dennie will participate.

Mr. Sacks submitted a request for Ms. McCowan to attend the National Association of Public Defenders Executive Leadership Institute in Frankfort, Kentucky from April 2 – 5, 2017. The conference cost is estimated to be \$1065. This amount includes registration fee, hotel, car rental, and meals at the State of Michigan's meal reimbursement rate.

Ms. Robinson moved that the proposed travel be approved at the estimated rate. Mr. Lindsey seconded the motion. The motion carried, all members participating approved the motion.

## **Business Agenda**

Judge Boyd and Mr. Shea submitted amendments for the December 20, 2016 open session minutes. Judge Boyd moved that the minutes be approved as amended. Mr. Shea seconded the motion. The motion carried, all members participating approved the motion.

Mr. Shea moved that the closed session minutes from December 20, 2016 be approved. Mr. King seconded the motion. The motion carried, all members participating approved the motion.

Judge Fisher requested that Mr. Sacks draft and present a strategic plan for the Commission's review. Mr. Sacks gave the Commission an overview of the plan. The Commission discussed the plan. Members were encouraged to continue to review the plan and provide feedback.

Dr. Siegel gave the Commission an overview of the Research Agenda and follow-up on the attorney survey. The survey has been updated to reflect the new framework for the adoption of standards by LARA.

Judge Boyd moved that the Research Agenda be approved. Mr. Shea seconded the motion. The motion carried, all members participating supported the motion.

The Commission discussed the agency's draft Annual Report. Members made amendments to the report. Mr. Eaman moved that the Annual Report be approved as amended and published. Judge Boyd seconded the motion. The motion carried, all members participating supported the motion.

Draft whitepapers addressing each standard were distributed to members for review. The Commission discussed the whitepapers and the timeline for releasing them.

Judge Boyd moved to approve and publish the whitepapers after the footnotes have been finalized and the language regarding confidentiality has been added to the Standard 4 document. Mr. King supported the motion. The motion carried, all members participating supported the motion.

The Commission discussed draft versions of the next set of standards. Mr. Sacks recommended that the standing committees be reconvened to review and modify the standards. He suggested that revised standards be circulated to the full Commission in March and considered at the April meeting.

Mr. Sacks presented a process for considering and approving discretionary grants using carryover funds from the 2016 fiscal year. These grants would be one-time awards made to innovative ways to improve indigent defense.

The Commission discussed MCL 780.933(2), which allows indigent criminal defense systems to submit estimates for the costs of developing compliance plans. These estimates could be approved by the MIDC and systems could be reimbursed for developing compliance plans and associated costs analyses.

Judge Boyd moved to use \$500,000 of the funds from the 2016 fiscal year to fund estimates submitted under MCL 780.933(2) ~~for the first 30 days of the 180-day compliance plan period. And, after the 30-day period has passed, to use any balance in the work project to fund discretionary grants.~~ Mr. Shea seconded the motion. The motion failed, the majority of members voted no on the proposal.

Mr. Puerner moved that the MIDC accept the staff recommendation to conditionally award cost-of-development grants upon approval of estimates, and the grants be approved and awarded as part of the compliance plan process. He further moved that the MIDC approve the draft discretionary grants process. Mr. Shea seconded the motion. Judge Boyd abstained from voting. The motion carried, the majority of members supported the motion.

Mr. McMillin updated members on the Compliance Committee's work. Staff worked to present the committee with a proposed process for accepting and reviewing the compliance plans prior to the plans being forwarded to the full Commission for its approval. The Compliance Committee will present a final document for the Commission's approval in April.

Mr. Sacks presented three potential grant opportunities that would fund additional MIDC projects. Members were given additional details about the grants. Mr. Puerner asked Mr. Sacks to detail how the opportunities would support the MIDC's core work and core mandates.

The first proposal would be an evaluation of first appearance compliance plans funded by the Department of Justice's Byrne/JAG Grant process. The second proposal is an opportunity suggested by the National Legal Aid and Defender Association (NLADA), who requested that the MIDC partner with NLADA on a mentorship project. The MIDC helped identify northern Michigan as a place with an assigned counsel process in a rural area. The third proposal would fund an item on the Research Agenda that was approved earlier in the meeting. The Urban Institute is interested in partnering with the MIDC on an Evaluation of Delivery Systems Research Project funded by the W.E.B. Du Bois Program of Research on Race and Crime. Through a combination of administrative data analysis and interviews, the MIDC research team will glean best practices from various systems in Michigan. Several counties have already indicated interest in participating.

Judge Boyd moved that MIDC staff be authorized to pursue all three proposals. Mr. Eaman supported the motion. The motion carried, all members supported the motion.

The Commission discussed the timeline for reviewing and approving compliance plans. Extra meetings may need to be scheduled. Members asked that the Chair give the Commission guidance in April.

Mr. McMillin moved that the meeting adjourn. Ms. Diehl seconded the motion. The motion carried, all members supported the motion.

The meeting was adjourned at 4:33 pm.

Respectfully submitted,  
Marcela Westrate