



MICHIGAN INDIGENT
DEFENSE COMMISSION

Michigan Indigent Defense Commission Meeting Minutes
200 N. Washington Square, 3rd Floor
Lansing, MI 48933
December 20, 2016
Time: 1:00 PM

Commission Members Present

James Fisher, Chair, Judge Thomas Boyd, Frank Eaman, Derek King, Richard Lindsey, Tom McMillin, Shela Motley, Kevin Oeffner, Michael Puerner, Brandy Robinson, David Schuringa, John Shea (arrived at 1:24 pm), and Gary Walker.

Participating via Telephone

Thomas Clement (non-voting member), Nancy Diehl, and William Swor (joined at 2:35 pm)

Members of the Public Present:

~~Barbara Klimaszewski~~, and Joanna Kloet

Staff Members Present

Jonathan Sacks, Ashley Carter, Claire Corsey, Christopher Dennie, **BARBARA KLIMASZEWSKI (INDEPENDENT CONTRACTOR SERVING AS REGIONAL CONSULTANT)**, Marla McCowan, Kelly McDoniel, Michael Naughton, Chris Sadler, Jonah Siegel, and Marcela Westrate.

The meeting was called to order at 1:01 pm.

Public comment

No members of the public wished to comment.

Additions to the agenda

There were no additions to the agenda.

Approval of October 2016 minutes

Judge Boyd moved that the minutes from the October 18, 2016 meeting be approved. Mr. Walker seconded the motion. The motion carried.

Report from the Chair

Chair Fisher reviewed the report he circulated to Michigan Indigent Defense Commission members (“MIDC” or “the Commission”).

The following members’ terms expire in April of 2017: Mr. Lindsey, Mr. McMillin, Ms. Motley, and Mr. Puerner. Chair Fisher intends to work with the Governor’s office on reappointing these members unless they do not wish to be reappointed.

Judge Boyd submitted the Nominating Committee’s report. The committee unanimously recommended the slate of officers for 2017. Chair: Judge Fisher, Vice Chair: Mr. Puerner, Secretary: Ms. Robinson.

Mr. Walker moved that the nominating committee’s report be adopted by the Commission, and that the members be elected officers for 2017. Mr. King seconded the motion. The motion carried.

Chair Fisher intends to appoint a Compliance Committee to establish the procedures for the submission of compliance plans. This committee will make recommendations for approval.

The legislation addressing the issues raised in the Michigan Supreme Court’s order passed both chambers and will be forwarded to Governor Snyder for his signature. Mr. Clement indicated that he will check with the Governor’s legislative liaisons in the House and Senate and see if there is additional information about when the bills will be signed.

Mr. Puerner, Mr. Sacks, and Ms. Westrate attended the November 28 meeting of the Michigan Association of Counties’ Judiciary and Public Safety Committee. Mr. Puerner updated the Commission on the meeting.

Chair Fisher has been in contact with the Attorney General’s office to obtain legal advice for the Commission. A half-time employee would cost the Commission \$90,000 annually. Chair Fisher met with several members of the Attorney General’s staff to update them on the history of the agency, where the Commission is now, and its current issues. Chair Fisher distributed a memorandum of understanding to the Commission for its review. The cost of counsel will not exceed \$30,000 per year; substantially less than a private law firm. Bridget Smith would begin counseling the Commission at the beginning of 2017 if the agreement is approved.

Judge Boyd moved that the Commission enter into the legal counsel memorandum of understanding provided by Chair Fisher. Mr. Eaman seconded. The motion carried.

Executive Director Report

Mr. Sacks presented the Commission with options for moving forward with the standards process. The Commission discussed these options.

Judge Boyd moved to accept the changes the Michigan Supreme Court made to the Commission’s first four standards. Mr. Puerner seconded. The motion carried.

Judge Boyd moved to authorize the Chair to send a letter to the Court thanking the Court for its conditional approval, advising the Court that the legislation has passed both chambers and is awaiting Governor Snyder's signature, and requesting final approval of the first set of standards subject to all of the provisions in the MIDC Act. Mr. Walker seconded the motion. The motion carried.

Judge Boyd moved to submit standards 1 – 4 to the Director of the Michigan Department of Licensing and Regulatory Affairs (LARA) with a letter indicating two public hearings have been held on the standards and the Commission has formally adopted the version of the standards conditionally approved by the Court. Mr. Shea supported the motion. The motion carried.

Mr. Sacks read a **THE ATTACHED** list of the activities that staff would like to take now that the legislation has passed. Mr. Swor moved to approve staff members' upcoming activities. Mr. Walker seconded the motion. The motion passed. (**SEE ATTACHMENT 1 FOR DETAILS**).

The Commission reviewed the proposed document entitled "Delivery System Reform Models." Mr. Eaman moved that the Commission publish and distribute the document. Ms. Robinson seconded the motion. The motion carried.

Mr. Sacks indicated that the meeting with the State Court Administrative Office's Regional Directors and MIDC staff members would be held on January 26, 2017. Ms. McCowan discussed the agenda for the meeting and invited Commission members to contact her if they were interested in attending the meeting. All members of the Commission are welcome to attend and some have already indicated interest.

The Commission discussed the potential for discretionary grants to indigent defense delivery systems and the necessity for a process to review and approve these grants.

Ms. Robinson **MOVED TO AUTHORIZE** ~~authorized~~ staff to draft a process for discretionary grants and to bring this proposal before the Commission for discussion in February. Mr. Puerner seconded. The motion carried.

The Commission continued its discussion from the October 2016 meeting about a potential caseload study request for proposals (RFP).

Judge Boyd moved to approve the RFP subject to the necessary approval or modification by LARA. Mr. Puerner seconded the motion. The motion carried.

Mr. Sacks will work on internal operating procedures (IOPs) and will review these with Ms. Smith from the Attorney General's office. Mr. Puerner requested that Mr. Sacks give the Commission the copy of the IOPs that are submitted to Ms. Smith.

Business Agenda

The Commission moved to item 7c from its Business Agenda, Budget Amendment. Mr. Sacks and Ms. Westrate described the proposed amendment which would fund a sixth Regional Manager at no additional cost to the Commission. Funding had been moved from the insurance line item to cover the cost of this employee.

Judge Boyd moved that the budget amendment be adopted. Mr. King seconded the motion. The motion carried.

The Commission discussed the staff salary matrix and policies. Mr. Puerner requested one document that regulates the administration of the agency. This document should include job descriptions, IOPs, and any performance metrics used to evaluate employees. **JUDGE BOYD ASKED THAT STAFF VERIFY HOW THE CIVIL SERVICE COMMISSION AWARDS COST OF LIVING ADJUSTMENTS AND STEP INCREASES, AND WHETHER THESE INCREASES ARE MADE IN THE SAME YEAR. STAFF WILL REPORT FINDINGS TO THE COMMISSION.**

Judge Boyd moved to strike #3 on the Proposed Staff Salary Schedule narrative which stated “In exceptional circumstances, the Executive Director requests the authority to increase a salary by more than one step, with the review of the Chair.” He further moved to replace this language with “All pay increases shall be submitted to and approved by the MIDC before taking effect.” Mr. Eaman supported the motion. The motion carried.

Mr. Shea moved that the proposed staff salary matrix be approved. Mr. Eaman supported. After discussion, Mr. Shea withdrew his motion and Mr. Eaman withdrew his support.

Judge Boyd asked that a new matrix be prepared that includes the steps for the entire salary range, and not just from current employees’ salaries.

Mr. Shea moved that a revised salary matrix be presented to the Commission in February. Mr. Eaman seconded the motion. The motion carried.

Mr. Eaman moved that the Commission approve staff salaries for the current fiscal year as listed in the chart provided to the Commission. Mr. Walker supported the motion. The motion carried.

Mr. Shea moved that the Commission approve the web portal contract and spending, as well as the leases for the Lansing and Traverse City offices. Mr. Eaman supported the motion. The motion carried.

Mr. Sacks and Ms. Westrate updated the Commission on potential costs to MIDC of the Department of Justice grant that was approved by the Commission in October. These costs are potentially offset by grand funding for indirect costs that the MIDC will receive.

Judge Boyd moved that the grant spending be approved. Ms. Motley supported the motion. The motion carried.

Mr. Walker moved that the Commission go into a closed session to discuss personnel reviews for Jonathan Sacks and Jonah Siegel. Mr. Sacks and Mr. Siegel each submitted requests for their reviews to be considered in a closed session. Mr. Puerner supported the motion. The Chair asked for a roll call vote. The motion passed, the following members voting to support the motion: Chair Fisher, Judge Boyd, Ms. Diehl, Mr. Eaman, Mr. Lindsey, Mr. King, Mr. McMillin, Ms. Motley, Mr. Oeffner, Mr. Puerner, Ms. Robinson, Mr. Shea, Dr. Schuringa, Mr. Swor, and Mr. Walker.

The Commission moved into closed session at 3:36 pm.

Mr. Walker moved that the Commission return to open session. Ms. Motley seconded the motion. Chair Fisher asked for a roll call vote. The motion passed, the following members voting to support the motion: Chair Fisher, Judge Boyd, Ms. Diehl, Mr. Eaman, Mr. Lindsey, Mr. King, Mr. McMillin, Ms. Motley, Mr. Oeffner, Mr. Puerner, Ms. Robinson, Mr. Shea, Dr. Schuringa, Mr. Swor, and Mr. Walker.

The Commission returned to open session at 4:21 pm.

The Commission moved that Mr. Sacks be awarded a 3% salary increase to account for the cost of living adjustments that were not awarded to the Executive Director for the 2016 and 2017 fiscal years. The motion carried.

Judge Boyd moved that Mr. Siegel be given a second step increase for the 2017 fiscal year. Mr. Eaman seconded the motion. The motion carried.

Ms. Robinson moved that the 2017 meeting dates be approved and posted. Mr. McMillin seconded the motion. The motion carried.

The Commission returned to a discussion about the Compliance Plan Committee. The following members were appointed to the committee: Judge Boyd, Mr. McMillin, Mr. Oeffner, Ms. Robinson, and Mr. Shea.

Mr. Eaman moved to adjourn. Mr. Shea seconded. The meeting adjourned at 4:36 pm.

Respectfully submitted,
Marcela Westrate

ATTACHMENT 1

December 20, 2016 Commission Meeting – List of future activities

Minimum Standards

- At the Commission meeting, options presented as to submission and implementation of the four conditionally approved minimum standards and the four draft minimum standards.
- Staff has prepared an RFP for a statewide study to help inform the draft standard on public defense workloads.
- Earlier this year, the Commission approved release of the first MIDC survey of defense attorneys. This survey will be ready for release next year.
- With modest revisions and updates, the Commission can release White Papers for the first four standards.
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Department of Licensing and Regulatory Affairs (LARA)

- Following an introductory meeting, LARA indicated that they would wait until the amending legislation passed before beginning MIDC's transition. They are now working with Supreme Court finance to assure a proper transition for expenses, payroll, and personnel issues.
- MIDC staff will work with LARA on other administrative transition issues including contracting, civil service requirements, and departmental policies.
- When the Commission makes a decision as to next steps for submission of standards, the Executive Director will set a meeting with the Director of LARA and the Chair to discuss the process for submission and approval of standards.

Michigan Supreme Court / State Court Administrative Office

- As the legislature has complied with the Supreme Court deadline of December 31, 2016, the Court will likely make a decision on the status of the conditionally approved standards.
- The Executive Director will schedule a meeting with the State Court Administrator and Supreme Court legal counsel to update on MIDC activities, cooperation working with SCAO regionals in courts, indigent defense developments in certain counties, and to discuss any questions stemming from these issues.
- The Executive Director also intends to update SCAO on MIDC research initiatives and continue discussions aimed at allowing MIDC access to the Judicial Data Warehouse.
- The MIDC / SCAO meeting on systems development and compliance is scheduled for January 26.

Funding Units / Local Systems

- The Executive Director will continue communication with Michigan Association of Counties (MAC) on messaging to constituents as to the new legislation and a presentation to the MAC Spring conference.
- MIDC Regionals will continue meeting with county commissioners, administrators, and other staff and stakeholders.
- MIDC staff will conduct similar outreach to the Michigan Municipal league and local municipalities that serve as funding units to courts.

Legislature & Executive

- MIDC staff is attempting to place the MIDC on the agenda for the new legislator school in 2017.
- Meet-ups with MIDC staff, interested Commissioners and legislators will restart to discuss the MIDC process and long-term funding of compliance plans.
- Update Executive Branch

Media

- As the new legislation is enacted and minimum standards are formally submitted, the Commission should consider a formal press release and other initiatives to generate publicity to advance these goals. Staff will provide *informal* messaging as requested and appropriate and will place relevant updates on the MIDC website for public access.