



MICHIGAN INDIGENT
DEFENSE COMMISSION

Date: Tuesday, April 21, 2020, Time: 11:00 a.m.
Meeting will be held remotely via Zoom:

<https://zoom.us/j/99205858758>
Meeting ID: 992 0585 8758
One tap mobile
+19292056099,,99205858758# US (New York)

MEETING AGENDA**

1. Roll call and opening remarks
2. Introduction of Commission members and guests
3. Public comment
4. Additions to agenda
5. Consent agenda – March 27, 2020 Special Meeting Minutes
6. Chair Report
7. Executive Director Report
8. Commission Business
 - a. Pretrial Incarceration and Jails Task Force Report and Update
 - b. FY20 Compliance Planning Process
 1. Plan changes (Action requested)
 2. Budget adjustments
 - o FY20 1st Quarter Reporting
 - o Budget adjustments in response to COVID-19
 3. Substantive review of third/final submissions (Action requested)
 - o D22 City of Inkster
 4. FY19 Financial/Program Reporting (Action requested)
 - o D22 City of Inkster
 - o Local system funding received from Michigan Department of Corrections
 - c. FY21 Compliance Planning Process
 - o FY21 MIDC grant contract (Action requested)
 - o Proposed Grant Manual (Action requested)
 - o FY21 compliance planning and review forms; committees
 - o Assessment tool
 - d. Draft Indigency Standard (Action requested)
9. Next meeting – **June 16, 2020 at 11:00 a.m.**
10. Adjourn

** This meeting will be conducted consistent with the requirements set forth in Executive Order 2020-48, Temporary authorization of remote participation in public meetings and hearings. Persons who wish to contact members of the Commission to provide input or ask questions on any business that will come before the public body at the meeting should send an email to Deborah Mitchell at mitchelld20@michigan.gov.

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held electronically via Zoom.

The notice included information for members of the public on how to participate.

March 27, 2020

Time: 1:06 pm

Commission Members Participating

Michael Puerner, Chair, Tracy Brame, Kimberly Buddin, Judge Jeffrey Collins, Nathaniel Crampton (left the meeting prior to the final vote because of technological issues), Andrew DeLeeuw, Judge James Fisher, Christine Green, Joseph Haveman, James Krizan, Margaret McAvoy, Tom McMillin, John Shea, William Swor, Gary Walker

Commission Members Absent

Nancy Diehl, Frank Eaman, Cami Pendell

Staff Members Participating

Loren Khogali, Barbara Klimaszewski, Marla McCowan, Kelly McDoniel, Rebecca Mack, Deborah Mitchell, Susan Prentice-Sao, Christopher Sadler, Jonah Siegel, Nicole Smithson, Kristen Staley, Melissa Wangler and Marcela Westrate

Chair Puerner called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 11:04 am.

Introduction of Commission members and guests

Public Comment

Chair Puerner invited members of the public to introduce themselves if they wished and to make comments to Commissioners.

Kyle Trevas previously emailed a question for the Commission’s consideration:

“In Leelanau, Antrim, and Grand Traverse Counties the compliance plans call for scheduled arraignment days that are assigned to counsel and paid at a flat rate. These scheduled arraignment days have been assigned to contract attorneys though the end of the year. We have been told we will not be paid for scheduled days that have been cancelled by the court. For the most part all arraignments are being handled in Grand Traverse as it is the same District for all three counties. That has effectively ended payments in Leelanau and Antrim Counties. Per the plan in Grand Traverse two attorneys are assigned Monday-Friday to handle arraignments. One for defendants in the jail and one for out of custody defendants. Grand Traverse is still currently scheduling arraignments Monday-Friday but will only pay one attorney.

Grand Traverse has also added weekend arraignment days to get people out of the jail faster. When this was created and scheduled last week we (attorneys) were told we would be paid for both days whether or not we were needed. Now we are being told we will only be

paid for if needed and we will be told at 7:30 am that morning if we need to be there by 8:30 am.

Should these Counties have to honor their plans, grants, and agreements with attorneys?"

Mr. Trevas provided public comment.

Chantá Parker, Managing Director of NDS Detroit officered comments about the work being done by her office and challenges faced in meeting the needs of clients during COVID-19.

Lillian Diallo of the Wayne County Criminal Defense Bar Association offered comments regarding Wayne County's system and the efforts made and challenges faced by the private bar handling appointed cases during COVID-19.

Janet Mistele provided public comment.

Chad Catalino, Chief Public Defender in Allegan/Van Buren Counties offered public comment.

Josh Hilgart, Kalamazoo County Public Defender, offered public comment.

Beth Morrow of the Wayne County Criminal Defense Bar Association offered her comments.

Adoption of the Agenda

Chair Puerner provided an overview of the agenda. Judge Collins moved to approve the agenda as presented. Mr. Krizan seconded the motion. The motion carried.

Consent Agenda

Chair Puerner presented the consent agenda containing the minutes from the February 11, 2020 Commission meeting. Judge Fisher moved that the consent agenda be approved. Ms. McAvoy seconded the motion. The motion carried.

Chair Report

Chair Puerner announced that Judge Boyd has resigned from his position as a district court judge to accept a position as the State Court Administrator. He submitted a letter of resignation from the MIDC to the Governor. The Michigan District Judges Association is working with the Governor's Appointments Office to fill the position.

Executive Director Report

Ms. Khogali invited the MIDC's Regional Managers to provide reports on each of their regions and discuss the innovations they are seeing in response to the COVID-19 crisis.

Kristen Staley presented an update on the South Central Michigan region. She provided examples she is seeing from Genesee and Ingham Counties.

Nicole Smithson presented an update on the Lapeer, Macomb, Oakland and St. Clair region. She provided examples from the 45th District Court in Oak Park and Lapeer County.

Melissa Wangler presented an update on the Northern Michigan region. She provided examples from Iron County.

Barbara Klimaszewski presented an update on the Mid-Michigan region. She provided examples from Tuscola County.

Susan Prentice-Sao presented an update on the Western Michigan region. She provided examples from Kent, Berrien and Kalamazoo Counties.

Kelly McDoniel presented an update on Wayne County. She detailed successes from throughout the county including NDS-Detroit.

Commission Business

MIDC Internal Operational Response to COVID-19

Ms. Khogali provided an update on the operational status of MIDC in response to COVID-19. As of March 23, all staff members have been working remotely. Regional staff members have been working with local systems remotely. Ms. Khogali noted that she has been working in partnership with the MIDC's partners at the Department of Licensing and Regulatory Affairs; Deputy Director Adam Sandoval was helpful in assisting the MIDC in getting the few tools it needed to work remotely. The MIDC continues to meet with legislators to discuss the MIDC's work and appropriations needs, these meetings are being held remotely.

Compliance with MIDC Minimum Standards During COVID-19 Pandemic

The Commission discussed the need to provide access to counsel remotely in response to COVID-19. Ms. Khogali advised the Commission of staff's initial response to reports received from attorneys in some systems that access to counsel was not being provided for meetings and/or hearings. Ms. Khogali urged that all funding units should be actively working to facilitate Standards 1, 2 and 4 through technology solutions. To gather additional information, MIDC staff created and distributed a survey to criminal defense attorneys in Michigan about remote access to clients for meetings and initial appearances during the COVID-19 pandemic. The survey generated over 400 responses over a couple of days.

After discussion, Mr. Shea moved the following: "The MIDC's standards for the timing of initial interviews and counsel appearing at arraignment and all critical proceedings remain in effect. The MIDC staff will work with funding units to facilitate any necessary modifications to compliance plans and/or budgets to ensure confidential attorney-client meetings take place remotely during the state of emergency and that attorneys appear in court for in-custody clients through technological means." Mr. Swor seconded the motion. The motion carried.

Completion of Standard 1 training requirement via video and remote training

Ms. McCowan gave an overview of the questions she is receiving regarding what training is going to look like with a prohibition on gatherings currently in place. She is also receiving questions about web-based training. MIDC staff can work with systems to identify good training opportunities that would be available.

Judge Collins moved the following: "The annual requirement for continuing legal education as set forth in MIDC Standard 1 remains in effect. The Commission strongly recommends, and would deem it to be compliant, that local funding units temporarily lift any restrictions prohibiting training by video as a method of compliance with the CLE requirement. The MIDC's staff will work with

funding units to identify and publicize appropriate options for training by video or video conferencing.” Mr. Swor seconded the motion. The motion carried.

Other Issues Related to COVID-19

Payment of MIDC grant-funded ancillary employees impacted by the slowdown of work as a result of COVID-19

Payment of grant-funded attorneys impacted by the slowdown of work as a result of COVID-19

Ms. Khogali provided an overview of the issues and the questions staff are receiving. The Commission discussed.

Mr. Trevas provided additional comments about what was occurring in the counties with whom he contracts.

Chair Puerner requested that staff continue to gather information on this issue and report to the Commission.

John Fanto provided comments about his experience in the 23rd District Court in Taylor.

Compliance plan submission deadline and reporting deadline

Ms. Khogali stated that some funding units have largely shut down or designated staff as non-essential. Staff has been discussing upcoming compliance plan submission and reporting date internally. The deadline for compliance planning is not statutory. We also have contractual programmatic and financial reporting due at the time.

Ms. McAvoy moved that the compliance plan submission deadline be extended to May 31, 2020. Mr. DeLeeuw seconded the motion. After discussion, Chair Puerner requested a roll call vote. The following Commissioners voted yes: Buddin, DeLeeuw, Fisher, Krizan, McAvoy, Shea, Swor. The following Commissioners voted no: Puerner, Collins, Green, Haveman, McMillin, Walker. Ms. Brame abstained from voting and as such was not counted in the number of members entitled to vote. Chair Puerner ruled that the motion carried.

The next meeting will be April 21, 2020 at 11:00 am. This meeting may also be held remotely.

Mr. Walker moved that the meeting be adjourned. Judge Fisher seconded. The motion carried. The meeting adjourned at 3:36 pm.

Respectfully submitted,

Marcela Westrate



MICHIGAN INDIGENT
DEFENSE COMMISSION

April 14, 2020

Dear Indigent Defense Partners:

We hope that this communication finds you all safe and well in these unprecedented times. We know how diligently you are working with your courts and sheriff's departments to ensure that you can continue to provide access to counsel through the use of virtual technology. Commission staff have been working to support your efforts, and we urge you to continue to tell us how we can help. Thank you for everything you are doing.

Because we understand the current stressors on the capacity of local government systems as they respond to the COVID-19 public health crisis, the Commission extended the deadline for submission of compliance plans to May 31, 2020. We also know that both the state and local budgets for FY20 and FY21 will face pressure as a result of the necessary resources being used to respond to the COVID-19 pandemic. These unanticipated pressures call for a collaborative response as we all navigate the need to uphold the fundamental constitutional rights to counsel and due process for indigent defendants while being mindful of new budget constraints that we all will likely face as the result of the pandemic.

Communication about your system's needs will be particularly important in this compliance planning cycle. We strongly encourage funding units to communicate with their Regional Managers and submit their compliance plans as soon as possible to enable the MIDC to communicate as effectively as possible to the State Budget Office and legislature about our FY21 funding needs.

In its review of compliance plans for FY21, the Commission will continue to focus on ensuring that local funding units have the resources to comply with the minimum standards for indigent defense. The Commission, however, is particularly mindful of the pressures that the state budget will undoubtedly face as a result of COVID-19. This is an opportunity for local funding units and the Commission to collaborate on innovative and efficient methods to facilitate the right to counsel and implementation of the Standards. As funding units engage in the compliance planning process, it will be especially important that the Commission be able to identify how costs for compliance plans are reasonably and directly related to the implementation of MIDC standards.

The unprecedented impact of COVID-19 requires that we work together to preserve the fundamental constitutional rights that become most critical in the midst of a crisis. The Commission remains committed to working with funding units to assist in identifying technological solutions to facilitate modifications within current compliance plans and budgets to ensure access to counsel and compliance with the MIDC's Standards.

Please do not hesitate to reach out if the MIDC can be of assistance.

Sincerely,

Loren Khogali, Executive Director
Michigan Indigent Defense Commission

Michael Puerner, Chair
Michigan Indigent Defense Commission

MIDC Fieldwork Summary

We met with the following systems either in person or via conference calls.

1. Ingham
2. Kalamazoo
3. Jackson
4. Oakland
5. Arenac

We arranged a meeting with Wayne; however, the county shut down all nonessential services as a result of COVID-19. As a result, we will not be assessing Wayne County during this engagement.

Our meetings with the systems focused primarily on learning about their policies and procedures related to procurement and accounts payable, as well as how they determine indigency. We also asked for samples of attorney invoices that we are reviewing for appropriateness. Additionally, we are reconciling the systems' FY19 Q4 FSRs against their supporting documentation and general ledgers.

To date, we have made the following observations:

- There are instances where systems did not provide supporting documentation for sampled expenses.
- FSRs generally reconcile to their supporting documentation and the systems' general ledgers.
- There are instances of payments to attorneys for work performed before October 1, 2019.
- Most systems would appreciate additional guidance related to financial requirements.
- Third-party service organizations (TPSO), such as Kalamazoo County Defender, Inc. and Neighborhood Defender Services at Wayne County, pose a unique risk because MIDC is dependent on the system to monitor compliance with financial requirements.
- Some systems lack documented policies and procedures related to procurement and accounts payable.

We also created a risk assessment tool to help MIDC prioritize systems for review.

PMM-13	EGrAMS - MIDC Implementation (MIDC) Status Report for the period ended 04/10/2020
--------	--

A. General Information

Project ID:	EGrAMS-MIDC	Date:	10 th April, 2020
From:	Joseph Rodrigues	Reporting Period:	04/06/2019 – 04/10/2020
To:	Steven Heath		
CC:	Rebecca Mack, Jim Parker		
Current SUITE Phase	COTS Implementation	Current Status	GREEN
Start Date:	10-17-2019	End Date - Warranty:	09-30-2020

Project Is On Plan Ahead of Plan Behind Plan

B. Executive Summary of Activity for the Reporting Period

HTC has completed training hand-outs for Train-the-Trainer Training
 Train-the-Trainer Training was conducted and completed on 04/07/2020
 The EGrAMS-MIDC site was set up in the AWS Production environment. The site will be activated once the DNS settings are refreshed

C. High Level Schedule for Reporting Period

#	Description	Responsibility	Baseline Date	Actual Date	% Complete / Status
1.	EGrAMS Train-the-Trainer hand-outs	HTC	03/13/2020	04/03/2020	Complete
2.	Train-the-Trainer Training to MIDC	HTC	03/18/2020	04/07/2020	Complete
3.	Set up / Activate EGrAMS-MIDC AWS Production environment	HTC	04/10/2020	04/10/2020	WIP
4.					
5.					
6.					
7.					
8.					

D. Accomplishments during the Reporting Period

#	Description
1.	EGrAMS Train-the-Trainer hand-outs
2.	Train-the-Trainer Training to MIDC
3.	Set up / Activate EGrAMS-MIDC AWS Production environment
4.	
5.	
6.	

E. Planned Accomplishments for the following Reporting Period

#	Description	Scheduled Completion Date
1.	EGrAMS Phase II Requirements Review	04/14/2020
2.	EGrAMS-MIDC Support	Ongoing
3.		
4.		

PMM-13	EGrAMS - MIDC Implementation (MIDC) Status Report for the period ended 04/10/2020
--------	--

F. Summary of Milestones Completed

#	Description	Completion Date
1.	EGrAMS-MIDC Implementation Project Schedule	11/08/2019
2.	MIDC Compliance Plan Application Process Flow	11/11/2019
3.	EGrAMS-MIDC Requirements Confirmation meetings	11/20/2019
4.	EGrAMS-MIDC Requirements Confirmation document	12/20/2019
5.	EGrAMS-MIDC Initiation & Planning Stage Exit Walkthrough	01/06/2020
6.	EGrAMS-MIDC NIST Security Control Questionnaire (14 Controls)	01/24/2020
7.	Configuration of MIDC Compliance Plan & Cost Analysis	01/24/2020
8.	Completed response to queries / clarifications from LARA / DTMB on EGrAMS-MIDC NIST Security Control Questionnaire Response	02/04/2020
9.	MIDC Compliance Plan System Test	02/27/2020
10.	Activated EGrAMS-MIDC Test Environment Setup on AWS	02/28/2020
11.	EGrAMS Train-the-Trainer hand-outs	04/03/2020
12.	Train-the-Trainer Training to MIDC	04/07/2020
13.	Set up / Activate EGrAMS-MIDC AWS Production environment	04/10/2020

G. Other Project Status Attachments (Mark checkbox if respective document is attached)

#	Description	Attachment	Attachment File Name
1.	Action Items	<input type="checkbox"/>	
2.	Issue Log	<input type="checkbox"/>	
3.	Risk Assessment Log	<input type="checkbox"/>	
4.	Updated Project Schedule	<input type="checkbox"/>	
5.	Test Log	<input type="checkbox"/>	
6.	Others	<input type="checkbox"/>	