

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.

April 21, 2020

Time: 11:10 am

Commission Members Participating

Michael Puerner, Chair, Tracy Brame, Kimberly Buddin, Judge Jeffrey Collins, Nathaniel Crampton, Andrew DeLeeuw, Judge James Fisher, Christine Green, Joseph Haveman (joined at 1:00 pm), 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, Andrea Johnson, 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 11:10 am.

He asked meeting participants to observe a moment of silence in appreciation of our front line employees for their courage in helping to reduce COVID-19 suffering, in sympathy of those who are battling the illness, in memory of those who have passed, and in hope that this situation will teach us new paths to unity, civility, and humanity.

Introduction of Commission members and guests

Chair Puerner introduced Takura Nyamfukudza, who serves as the MIDC’s representative on the Michigan Joint Taskforce on Jail and Pretrial Incarceration.

Public Comment

No members of the public wished to provide comments.

Approval of the Agenda

There were no additions to the agenda. Commissioner McAvoy moved that the agenda be approved. Commissioner Swor seconded the motion. The motion carried.

Consent Agenda

Commissioner Green moved that the consent agenda containing the minutes from the March 27, 2020 special meeting be approved. Commissioner Krizan seconded the motion. The motion carried.

Chair Report

Chair Puerner provided an overview of the meeting agenda and materials. He has worked with MIDC staff to reconfigure the Commission’s committees and provided an updated list of assignments to Commissioners. The Compliance Planning Committee will address potential budget

issues and will make recommendations to the Commission on how to proceed in approving compliance plans during a challenging budget situation.

Executive Director Report

Ms. Khogali thanked staff for the work they are doing to assist systems in responding to COVID-19 and for ensuring that systems were equipped to use technology to comply with MIDC standards. She provided an overview of the anticipated shortfalls with the state budget and potential impacts on MIDC funding.

After the March meeting, all funding units and stakeholders received a letter reaffirming the requirement to continue complying with the MIDC standards. In April, letters were sent to local funding units acknowledging the hard work the MIDC is seeing among partners and making sure that funding units are focused on ensuring compliance plans are directly and reasonable related to MIDC standards as we approach the next fiscal year.

Commission Business

COVID-19 Criminal Justice Advocacy

Chair Puerner invited Commissioner Buddin to provide an update about her work at the ACLU-MI and the broader criminal justice advocacy landscape in response to COVID-19. Commissioner Buddin discussed the work the ACLU-MI has been doing with its partner organizations.

Michigan Joint Task Force on Jail and Pretrial Incarceration Report and Update

Takura Nyamfukudza, the MIDC's representative on the task force, provided an update on the final report and answered questions from members of the Commission.

FY20 Compliance Planning Process

Plan changes

MIDC staff approved minor changes to plans in two systems, the 40th District Court - St. Clair Shores and Muskegon County. Ms. McCowan provided Commissioners with an overview of the changes.

Ms. McCowan and Ms. Prentice-Sao provided an overview of Cass County's request for a substantive plan change.

Cass County's previously approved plan provided for a MIDC Grant Coordinator for a total salary of \$20,800 and total fringe benefits of \$14,976. Implementation of this part of the plan was delayed due to a delay in hiring for this MIDC Grant Coordinator position. Cass County is requesting a "no cost" plan revision to include a Managed Assigned Counsel. MIDC staff recommends approval.

Commissioner Shea moved that Cass County's plan change be approved. Ms. McAvoy seconded the motion. The motion carried.

Budget adjustments

Ms. Mack approved the following budget adjustment requests; these adjustments did not impact the total system cost:

- Bay County
- Calhoun County
- Clinton County
- 20th District Court - Dearborn Heights
- 30th District Court - Highland Park
- 33rd District Court - Trenton
- 34th District Court - Romulus
- 48th District Court Bloomfield
- Delta County
- Kalkaska County
- Livingston County
- Menominee County
- Muskegon County
- Oakland C 6 & D 52-1, 2, 3, 4
- Ottawa County
- St. Clair County
- Wexford and Missaukee

Ms. Mack denied the following budget adjustment requests:

- 17th District Court – Redford
- 50th District Court - Pontiac

Substantive review of third/final submissions

Ms. McCowan and Ms. McDoniel presented an overview of the 22nd District Court - City of Inkster’s resubmitted plan and cost analysis. MIDC staff recommends adopting both the plan and cost analysis.

Commissioner Fisher moved that that the staff recommendation be adopted and that the resubmitted plan and cost analysis be approved. Commissioner Shea seconded the motion. The motion carried.

FY19 Financial/Program Reporting

Ms. Mack and Ms. McCowan provided an update on what staff has received for financial reporting from the City of Inkster. Staff is still seeking verification of several issues, including the amount of FY 19 funding that was unspent. Ms. Khogali provided an overview of the notifications provided to the city requesting the documentation.

Commissioner Green moved that the Executive Director notify the funding unit, the City of Inkster, that funding for the approved FY 20 contract will not be distributed until complete financial reporting for FY 19 is submitted to the MIDC. Commissioner Walker seconded the motion. The motion carried.

Local System Funding Received from Michigan Department of Corrections

Ms. Mack and Ms. McCowan provided an overview of this issue. In FY 19, several local systems received funding from the MDOC as reimbursement for indigent defense representation in adult criminal trial courts totaling \$254,297.41.

Commissioner Shea moved that MIDC staff should direct local funding units to report reimbursements received from the Michigan Department of Corrections for which funding is also provided through the MIDC grant as part of program income and report it quarterly or at the end of the fiscal year in the final quarterly report. Commissioner Walker seconded the motion. The motion carried.

The Commission recessed for 10 minutes.

FY 21 Compliance Planning Process

Ms. Khogali and Ms. McCowan provided an update on the status for FY 21 compliance planning. Ms. McCowan answered questions from Commissioners.

FY 21 MIDC Grant Contract

Ms. Khogali met with the Michigan Association of Counties and other stakeholders regarding the language in the contract. Feedback from those meetings has been incorporated into the document presented to the Commission. She will present a final version of the contract for the Commission's review and approval at the June meeting. Judge Fisher indicated that he would like language in section 1.0 modified, he will send that language to Ms. Khogali for her review.

Proposed Grant Manual

Commissioner Green moved that the issue of adopting the grant manual be removed from the table. Commissioner Swor seconded the motion. The motion carried.

Chair Puerner presented the manual to members of the Commission and discussed its purpose. Ms. Khogali provided an explanation of changes. Commissioners asked questions and recommended changes that should be made.

Commissioner Walker moved that the document be approved subject to the editorial changes discussed by the Commission and that it be vetted by the Executive Committee through staff and presented for final ratification by the Commission. Commissioner Krizan seconded the motion. The motion carried.

Assessment Tool

Dr. Siegel provided an overview of an assessment tool that he and Mr. Sadler are creating. They will both work with the Compliance Planning Committee over the next month to refine it. This tool will provide another method for reviewing compliance plans and the funding requested from local systems.

Draft Indigency Standard

Ms. Smithson provided an overview of the process used to formulate the proposed standard. She reviewed the standard with the Commission and answered questions from Commissioners.

The draft standard will be reviewed by the committee for final revisions consistent with the Commission's discussion. The final version of the standard will be before the Commission for a public hearing at an upcoming meeting.

The next meeting will be June 16, 2020 at 11:00 a.m.

Commissioner Swor moved that the meeting be adjourned. Commissioner Green seconded the motion. The motion carried. The meeting was adjourned at 2:34 pm.

Respectfully submitted,
Marcela Westrate