



MICHIGAN INDIGENT
DEFENSE COMMISSION

Date: Tuesday, December 15, 2020

Time: 9:00 a.m.

Location: Zoom

<https://us02web.zoom.us/j/89500551609>

Meeting ID: 895 0055 1609

One tap mobile

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MEETING AGENDA

1. Roll call and opening remarks (3 minutes)
2. Introduction of Commission members and guests (3 minutes)
3. Public comment
4. Additions to agenda
5. Consent agenda (3 minutes)
 - a. October 20, 2020 Minutes
 - b. 2021 Commission Meeting Dates
6. Chair Report (5 minutes)
7. Executive Director Report (5 minutes)
8. Commission Business
 - a. Nominations Committee Report (10 minutes)
 - b. Year in Review Presentation (15 minutes)
 - c. FY20 Legislative Wrap Up (10 minutes)
 - Budget/Appropriations
 - Bills and Legislative Action of Interest
 - d. Research Report (15 minutes)
 - e. CREW Report (30 minutes)
 - f. FY20 Compliance Updates (10 minutes)
 1. D22 City of Inkster (Action requested)
 2. Fourth Quarter Reporting
 - Budget adjustments
 - g. Review of FY21 Compliance Plan Submissions (Action requested) (50 minutes)

Staff Recommendation:

 - Plan changes and budget adjustments (information items)
 - Request for Reimbursement for Overspending FY20 Plan
 1. Clinton County
 2. Montcalm County
 - Previously Disapproved Plan and Cost Analysis; **DISAPPROVE** Plan and Cost Analysis
 - *Failure to resubmit:*
 1. D22 City of Inkster

2. D30 Highland Park
 - *Resubmission:*
 3. D43-1 Hazel Park
- Previously Disapproved Plan and Cost Analysis; **APPROVE** Plan and Cost Analysis
 4. D27 Wyandotte
- Previously Approved Plan, disapproved Cost Analysis; **APPROVE** Cost Analysis
 5. Alger County
 6. D43-3 Madison Heights
 7. Kalamazoo County
 8. Roscommon County
- Previously Approved Plan, disapproved Cost Analysis; **APPROVE** Amended Plan, **CONDITIONALLY APPROVE** Cost Analysis
 9. Wayne County
9. Next meeting – **February 2021** (TBD)
10. Adjourn

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held remotely via Zoom in compliance with the Open Meetings Act and Public Act 228 of 2020 to reduce transmission of COVID-19 and protect the health of Commissioners, MIDC staff and members of the public interested in attending the meeting. The MIDC website and meeting notice included information for members of the public on how to participate.

October 20, 2020

Time: 9:00 am

Commission Members Participating

Consistent with Public Act 228 of 2020, Commissioners were asked to identify the county, city, town or village and state from which they are participating during roll call. All commissioners participated remotely. That information is reflected below in parentheses following each Commissioner's name.

- Michael Puerner, Chair, (Kent County, Michigan)
- Joshua Blanchard (Greenville, Montcalm County, Michigan)
- Tracy Brame (Grand Rapids, Kent County, Michigan)
- Kimberly Buddin (Washtenaw County, Michigan)
- Judge Jeffrey Collins (Wayne County, Michigan)
- Nathaniel Crampton (Jackson, Jackson County, Michigan)
- Andrew DeLeeuw (Washtenaw County, Michigan)
- Judge James Fisher (Grand Rapids, Kent County, Michigan), (joined at 10:00 am)
- Christine Green (Washtenaw County, Michigan)
- Joseph Haveman (Grand Rapids, Kent County, Michigan)
- David Jones (Detroit, Wayne County, Michigan)
- James Krizan (Lincoln Park, Wayne County, Michigan)
- Judge Kristina Robinson Garrett (Detroit, Wayne County, Michigan), (joined at 10:07 am)
- Margaret McAvoy (Mount Pleasant, Isabella County, Michigan)
- Tom McMillin (Oakland Township, Oakland County, Michigan)
- John Shea (Dexter Township, Washtenaw County, Michigan)
- William Swor (Detroit, Wayne County, Michigan)
- Gary Walker (Chocolay Township, Marquette County, Michigan)

Commission Members Absent:

Cami Pendell (ex-officio)

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 9:02 am.

Introduction of Commission Members and Guests

Chair Puerner welcomed attendees to the meeting.

Ms. Khogali introduced Kimberly Tandy and Mary Ann Scali of the National Juvenile Defender Center and Scott Dzurka, Stephan Vitvitsky and Erin Lammers from Public Sector Consultants.

Public Comment

Melanie Young indicated that she was participating in the meeting and able to answer any questions regarding Monroe County’s plan.

Marianne Talon, Dawn Van Hoek, Drew Van de Grift and Robin Dillard-Russaw offered comments on behalf of Wayne County.

Lillian Diallo offered comments on behalf of the Wayne County Criminal Defense Bar Association.

Eric Wilson offered comments on behalf of Madison Heights.

Kareem Johnson offered comments on behalf of Jackson County.

Approval of the Agenda

There were no additions to the agenda. Judge Collins moved to approve the agenda as presented, Commissioner Swor seconded. The motion carried.

Consent Agenda

Commissioner Walker moved that the consent agenda containing the minutes from the August and September meetings be adopted. Commissioner Jones seconded. The motion carried.

Chair Report

Chair Puerner thanked MIDC staff members for their hard work over the last several months. He thanked Ms. Smithson for her work on the Eligibility Screening Standard. He thanked Governor Whitmer, the Department of Licensing and Regulatory Affairs (LARA), the State Budget Office, and the legislature for their support of the Commission’s fiscal needs during the appropriations process.

Executive Director Report

Ms. Khogali provided an overview of the written report given to members prior to the meeting. She updated the Commission on MIDC’s appropriations for the 2021 fiscal year that began October 1, 2020. State departments are still under a hiring freeze, Ms. Khogali is working with LARA to receive exemptions to hire two positions. The first position is the Grant Analyst which has been vacant since May. The second position is a new Training Analyst position that was approved by the Civil Service Commission shortly before the hiring freeze was implemented.

LARA is expected to sign the independence from the judiciary standard this month.

Amendments made to the MIDC Act in 2018 required the MIDC to look at local contribution and present a report to the legislature. Public Sector Consultants was chosen after going through LARA's RFP process. Ms. Khogali thanked Bridgette Gransden, Midland County Administrator and Connie Bohatch, City of Grand Rapids, who participated as part of RFP committee representing local systems. Mr. Dzurka from Public Sector Consultants introduced himself and his firm to the Commission.

Commission Business

Presentation on National Juvenile Defender Center Michigan Assessment

Ms. Khogali introduced Ms. Tandy, who provided an overview of the Michigan assessment that was recently completed by the National Juvenile Defender Center.

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

Commissioner Buddin updated the Commission on legislation that would begin to codify the recommendations in the Task Force's final report.

Report of Eligibility Screening Standard Committee

Ms. Khogali and Ms. Smithson provided an overview of the work done after the public hearing. Ms. Khogali will work with LARA to determine the timing for submitting the standard for the Department's review if the Commission approves the standard.

Commissioner Shea moved that the Commission approve the standard for presentation to LARA and request that LARA approve it, leaving discretion as to the timing of requested approval to the Executive Director. Commissioner Walker seconded the motion. The motion carried.

The meeting recessed from 11:02 until 11:12. Commissioner Haveman left during the recess.

Recommendation by Executive Committee to Approve Amendment Allowing Funding Units to Continue to Spend Unexpended FY 20 Funds

Ms. Khogali provided an overview of the amendment and its purpose. The Commission's Executive Committee reviewed the document and recommends approval. Commissioner Walker moved that the Commission adopt the Executive Committee's recommendation and the amendment be approved. The motion carried.

Recommendation of Executive Committee to Extend Wayne County FY20 Planning Grant

Ms. Khogali provided an overview of the planning grant awarded to Wayne County in FY 20. The current end date for that grant is December 31, 2020. The County requested that the grant be extended until all funds are expended. The Commission's Executive Committee recommends that the document be extended until February 28, 2021.

Judge Fisher moved that the Executive Committee's recommendation be adopted and that the Wayne County planning grant be extended until February 28, 2021. Commissioner Green seconded. After discussion, Chair Puerner called for a roll call vote. The motion carried.

The following Commissioners voted yes: Chair Puerner, Commissioners Blanchard, Brame, Buddin, Judge Collins, Commissioners Crampton, DeLeeuw, Judge Fisher, Commissioners Green, Krizan, McMillin, Judge Robinson Garrett, Commissioners Swor and Walker.

Commissioners McAvoy and Shea voted no on the motion. Commissioner Shea clarified after the vote that he supported the extension but voted no due to the date to which the extension was limited. Commissioner McAvoy affirmed that she opposed the motion on the same basis.

Plan Changes

Kent County made changes to its FY20 compliance plan to modify the start date, compensation, and hours of work for the indigent defense administrator/attorney position in that County. These changes did not require Commission approval.

Budget Adjustments

Ms. Mack approved budget adjustments for the following systems, these adjustments did not impact the total system cost:

- 46th District Court – Southfield
- Macomb County
- Bay County
- Clare and Gladwin Counties
- Isabella County
- Mason County
- Saginaw County
- Alger County
- Benzie and Manistee Counties
- Marquette County
- Clinton County
- Gratiot County
- Jackson County
- Lenawee County
- Washtenaw County
- 23rd District Court – Taylor
- 28th District Court – Southgate
- Branch County
- Ionia County
- Kent County
- Ottawa County

Ms. Mack denied a budget request made by the 39th District Court – Roseville/Fraser.

Review of FY 21 Compliance Plan Submissions

Committee meetings

The System Change Committee chaired by Commissioner Walker met virtually on October 15. The committee reviewed the staff recommendations for the following plans:

- Alpena, Montmorency
- Barry
- Eastpointe
- Romulus (weekend arraignments change only)
- Kent County 3rd class district courts

Commissioner Walker gave the Commission an overview of the meeting.

The Increase to Direct Costs Committee chaired by Commissioner Swor met virtually on October 15. The committee reviewed the staff recommendations for the following plans:

- Calhoun
- 17th District Court - Redford (not recommended for approval)
- 46th District Court - Southfield
- Ionia
- Iosco
- Jackson
- Kent
- Lapeer
- Monroe

- Muskegon
- Washtenaw

Commissioner Swor gave the Commission an overview of the meeting.

The General Increase to Plan Committee chaired by Commissioner Green met on October 15.

The committee reviewed the staff recommendations for the following plans:

- Allegan/Van Buren
- Barry
- 25th District Court - Lincoln Park
- 46th District Court - Southfield
- 50th District Court - Pontiac
- 59s and 62s District Courts
- 61st District Court - Grand Rapids
- Ionia
- Jackson
- Kent
- Kent - ALL (planning grant/feasibility study)
- Muskegon
- Washtenaw

Commissioner Green provided an overview of the meeting. She highlighted potential revisions to the Grant Manual that might be helpful to the Commission as it reviews plans.

Substantive Review of Compliance Plans and Cost Analyses

Ms. McCowan provided an overview of the resubmitted costs analyses for the 17th District Court – Redford and the 43-3 District Court – Madison Heights. The plans for both systems were previously approved. The staff recommendation is to disapprove both resubmitted cost analyses.

Commissioner McMillin moved that the staff recommendation be adopted and that the cost analyses resubmitted by the 17th District Court – Redford and the 43-3 District Court – Madison Heights be disapproved. Commissioner Swor supported. The motion carried.

The Commission turned to consideration of the systems whose plan and cost analysis were previously disapproved. The staff recommendation is that both the resubmitted plan and cost analysis for the systems listed below be approved:

- Allegan and Van Buren Counties
- 20th District Court - Dearborn Heights
- 37th District Court - Warren and Centerline
- 46th District Court - Southfield
- Grosse Pte. Woods
- Midland County
- 38th District Court - Eastpointe
- Barry County
- Calhoun County
- 61st District Court - Grand Rapids
- 62 a District Court - Wyoming (incl. 59-1, 59-2, 62B)
- Kent – 17th Circuit & 63rd District
- Muskegon County

Ms. McCowan provided an overview of each plan. Ms. Prentice-Sao, Ms. McDoniel, and Ms. Klimaszewski answered questions from the Commission.

Commissioner Walker moved that the resubmitted plans and cost analyses for the 13 systems listed above be approved. Commissioner Green seconded. The motion carried.

The Commission moved to consideration of systems whose plans were previously approved but whose costs analyses were previously rejected. The staff recommendation is to approve the resubmitted cost analysis for the systems listed below:

- 25th District Court – Lincoln Park
- 34th District Court – Romulus
- 50th District Court – Pontiac
- 51st District Court – Waterford
- Lapeer County
- Washtenaw County
- Alpena County
- Montmorency County
- Ionia County
- Iosco County
- Jackson County
- Monroe County

Ms. McCowan provided an overview of each system. Ms. Prentice-Sao, Ms. Klimaszewski and Ms. Staley answered questions from the Commission.

Commissioner Shea moved that the staff recommendation be adopted and that the resubmitted cost analyses for the 12 systems listed above be approved. Commissioner Swor seconded. The motion carried.

Report of the Court Rules Committee

The committee met October 6 to consider changes to the court rules to reflect the Commission's counsel at first appearance and eligibility standards. The draft was provided to Commissioners for their review and has been forwarded to the State Court Administrator for continued discussion. The committee discussed changes to MCR 8.120 proposed by a member of the State Bar of Michigan's Representative Assembly. This proposal has been tabled by the Representative Assembly until April of 2021. MIDC will continue to monitor this proposal and the committee will reconvene as necessary.

The Commission's next meeting is December 15, 2020.

Judge Fisher moved to adjourn. Commissioner Shea seconded. The motion carried. The meeting adjourned at 12:43 pm.

Respectfully submitted,
Marcela Westrate



MICHIGAN INDIGENT
DEFENSE COMMISSION

**Michigan Indigent Defense Commission
2021 Meetings**

Time: 9:00 a.m.

Location: TBD

February 23, 2021

April 20, 2021

June 15, 2021

August 17, 2021 (Budget Meeting)

October 19, 2021

December 16, 2021



MICHIGAN INDIGENT DEFENSE COMMISSION

To: Commissioners
From: Marcela Westrate
Date: December 7, 2020

At the end of the year, the legislature will adjourn its 2019-2020 session. Any legislation that does not pass this year will have to be reintroduced during the next legislative session that begins in January. Committees in the House will see their rosters adjusted as new members are sworn in and assigned to various committees.

The appropriations process will begin in the new year as well, with Governor Whitmer's budget presentation in February. The appropriations subcommittees will presumably hold hearings about the budget areas, including the MIDC. Typically, Loren presents to the House and Senate subcommittees. We are waiting to get more information about what this year's budget process looks like given that state employees are working from home until March.

This session, several bill packages have moved that have advanced efforts to reform criminal justice in our state. The following are a just few highlights of bills that impact the clients served by our indigent defense systems:

- **Joint Task Force on Jail and Pretrial Release:** On December 3, the Senate passed a group of Senate bills that begin to enact the recommendations released by the Joint Task Force on Jail and Pretrial Incarceration. This follows action by the House on a separate group of House bills which were passed by that chamber in September and reported from the Senate Committee on Judiciary and Public Safety in October. The Senate will have to act on the House bills and vice versa before the package can be presented to Governor Whitmer for her signature. We are expecting another group of bills to be introduced next session.
- **Clean Slate:** This seven-bill package expands access to expungements and makes the process easier so that more individuals can have their records restored. These bills were signed into law in October of 2020.
- **Good moral character:** House Bills 4488 through 4493 passed the House and are currently awaiting action in the Senate. This package is supported by LARA and will remove barriers to make it easier for people with prior criminal records to have access to occupations that require licensing by the Department.

The legislature will meet for its last session days over the next few weeks, there may be additional movement on criminal justice issues during this period. As we look towards next year, Loren and I are looking forward to expanding the MIDC's partners in legislative advocacy. MIDC participates with

the Michigan Collaborative to End Mass Incarceration (MI-CEMI), whose steering committee is comprised of criminal justice advocates. MIDC was included as an agency member of the Michigan Poverty Task Force, which is working on its draft recommendations, including in the area of criminal justice. We continue to work with LARA to advocate for criminal justice issues that impact our work.

2020 MIDC Research Wrap Up

COMMISSION PRESENTATION

12-15-2020

Agenda

- Data Collection and Analysis
- Social Worker Defender Program
- Participatory Defense
- CAFA Cost-Benefit Analysis



Data Collection and Analysis



Quarterly reporting



Addition of pretrial release data
points to defenderData



Signing of data agreements with
dD PD offices



Urban Institute standards
evaluation

Social Worker Defender Project

- Genesee County Court, 2018-2020
- Primary goal: sentence mitigation
- Social worker received 78 referrals, conducted 61 assessments, and presented 39 sentence mitigation reports to the court.



Evaluation of SWDP

- Increased awareness of community programming (A, J)
- Helped get clients into programming before sentencing (all)
- Improved relationships between attorneys and clients (A, C)
- Increased understanding of process (A, C)
- Provided more comprehensive information to judges (all)

“I consider myself to be a compassionate person and when thinking about the sentences that people received...I appreciated the report because it is important to know where someone comes from, their life history, as well as their potential...I don't think that there is a judge that doesn't think that more information is not useful...I wish it were more expansive. I would have loved to receive more of them.”

- Judge, Genesee County Court

Participatory Defense

- Grassroots response to the criminal legal system centering the people moving through it, operated through PD “hubs”
- Partnership with PD offices so that family and community members can help advance defense cases

Participatory Defense, cont...

- Grant from PWF, sites in Detroit and Kalamazoo
- COVID-19 delays, but hubs have launched and are taking cases
- 2021: continued on-boarding with national hubs; identification of additional sites

CAFA Cost-Benefit Analysis

- American University conducting CBA in two national sites
- Project goals
 1. Assess the outcomes, costs, and cost savings of CAFA
 2. Develop a cost-benefit tool that other local systems can use to ascertain the fiscal impact of CAFA
- Barry County: partnership between defense administrator, court and county administrators, the prosecutor, and the sheriff, among other stakeholders.

Questions?

Jonah Siegel
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