

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.

December 15, 2020

Time: 9:00 am

Commission Members Participating

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

- Michael Puerner, Chair, (Ada, Kent County, Michigan)
- Tracy Brame (Grand Rapids, Kent County, Michigan)
- Kimberly Buddin (Novi, 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)
- Christine Green (Washtenaw County, Michigan)
- David Jones (Detroit, Wayne County, Michigan)
- James Krizan (Allan Park, Wayne County, Michigan)
- Cami Pendell (non-voting member) (Lansing, Ingham County, Michigan), joined at 10:40 am
- Margaret McAvoy (Mount Pleasant, Isabella County, Michigan)
- Tom McMillin (Benzonia, Michigan)
- Judge Kristina Robinson Garrett (Detroit, Wayne County, Michigan)
- John Shea (Dexter Township, Washtenaw County, Michigan)
- William Swor (Detroit, Wayne County, Michigan)
- Gary Walker (Chocolay Township, Marquette County, Michigan), joined at 10:00 am

Commission Members Absent:

Joshua Blanchard and Joseph Haveman

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 9:03 am.

Introduction of Commission members and guests

Chair Puerner welcomed attendees to the meeting. Guests were invited to introduce themselves.

Public Comment

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

James Heath offered comments on behalf of Wayne County.

Radric Davis submitted a written comment which was read to Commissioners by Loren Khogali.

Additions to agenda

Commissioner Krizan moved that the agenda be approved as presented. Judge Collins seconded the motion. The motion carried.

Consent Agenda

Commissioner DeLeeuw moved that the consent agenda containing the October meeting minutes and 2021 meeting dates be adopted. Commissioner Jones supported. The motion carried.

Chair Report

Chair Puerner provided an overview of the agenda and materials provided to commissioners. He highlighted the Commission’s successes over the last year.

Executive Director Report

Ms. Khogali provided a written report to the Commission prior to the meeting. She expressed her gratitude for the opportunity to do this important work with the Commission. She acknowledged the work of staff, commissioners, local funding units and public defenders.

Commission Business

Nominations Committee

Chair Puerner provided an overview of the Nominating Committee’s meeting. He thanked Commissioners Buddin and Shea for their participation on the committee. The Nominations Committee recommends that Judge Collins serve as Chair of the Commission, Commissioner Green serve as Vice Chair and that Commissioner Walker continue serving as Secretary.

Chair Puerner opened the floor for additional nominations. There were no additional nominations.

Commissioner Shea moved that the Commission adopt the Nominating Committee's Report. Commissioner Swor seconded. The motion carried.

The Ad Hoc Nominating Committee was discharged having completed its charge.

Judge Fisher moved that Chair Puerner remain on the Executive Committee as immediate past Chair and that Judge Fisher step off of the Committee. Commissioner Shea supported. The motion carried.

Ms. Khogali expressed her appreciation for the support the Executive Committee has provided her over the last three years. She welcomed Commissioner Green and Judge Collins and thanked Judge Fisher for his longstanding commitment and to indigent defense reform, including serving as Chair of the Indigent Defense Advisory Commission, the inaugural permanent Michigan Indigent Defense Commission, and continued work as a member of the Executive Committee.

Year in Review Presentation

Ms. Khogali and Ms. McCowan presented a year in review video highlighting the work of the staff, Commission and local public defense systems in 2020.

FY 20 Legislative Wrap-Up

Ms. Westrate provided an update about the legislature's activities and the upcoming appropriations process.

Research Report

Dr. Siegel provided an overview of research and data initiatives and updated the Commission on progress on research projects.

CREW Report

Chair Puerner invited Linda Rexer and MaryAnn Sarosi to present an overview of the Citizens for Racial Equality in Washtenaw (CREW) Report.

FY 20 Compliance Updates

City of Inkster

Ms. McCowan provided an update on the contact MIDC staff has had with the City of Inkster. The system has not completed FY 19 reporting requirements and has not submitted any reports for FY 20. The staff recommendation is that staff be authorized to activate the mediation process if the City of Inkster does not have complete reporting by the end of January 2021.

Judge Fisher moved that the staff recommendation be adopted, and that staff be authorized to activate the mediation process if there is not complete reporting from the City of Inkster by the end of January 2021. Commissioner Green seconded the motion. The motion carried.

FY 20 Fourth Quarter Budget Adjustments

Ms. Mack approved budget adjustment requests for the systems listed below. The adjustments did not impact the total system cost.

- Allegan and Van Buren Counties
- Berrien County
- 32A District Court – City of Harper Woods
- 50th District Court – City of Pontiac
- Huron County
- Isabella County
- Ogemaw County
- Ontonagon County
- Saginaw County
- Sanilac County
- Tuscola County
- Washtenaw County
- Wexford and Missaukee Counties

The Commission recessed from 11:00 until 11:15 am.

Following the recess, Chair Puerner called for a roll call vote. Ms. Westrate called the roll and a quorum of members was still present.

FY 21 Approved Plans and Cost Analysis – request to increase approved MIDC grant funding award by way of reimbursement

Clinton and Montcalm Counties submitted requests to receive reimbursement by revising their cost analyses to reflect overspending in FY 20. Clinton County overspent by \$98,962.01 and Montcalm County by \$72,884.99.

The staff recommendation is that each FY 21 cost analysis be increased by the amount overspent in FY 20 and that the total system cost be adjusted accordingly. Commissioner Swor moved that the staff recommendation be adopted. Commissioner Walker seconded. The motion carried.

Review of FY 21 Compliance Plans and Cost Analyses - Resubmissions

Ms. McCowan provided an overview of the committee work completed prior to the Commission meeting.

The Increase to Direct Costs Committee, chaired by Commissioner Swor, met December 10. The committee considered the following plans: Alger County, 43-1 District Court in Hazel Park and Wayne County.

The General Increase to Plan Committee, Chaired by Commissioner Green, met on November 20 to discuss the request to fund construction at the criminal justice complex in Wayne County.

Substantive Review of Resubmissions

The 22nd District Court in the City of Inkster and the 30th District Court in Highland Park failed to resubmit plans and/or cost analyses. The staff recommendation is that the failure to resubmit be treated as a disapproval of both the plans and cost analyses for these two systems. Judge Collins moved that the staff recommendation be adopted. Commissioner Swor seconded. The motion carried.

The 43-1 District Court in Hazel Park provided a resubmission for the staff's review. The staff recommendation is to disapprove the compliance plan and disapprove the cost analysis for this system. Commissioner Swor moved that the staff recommendation be adopted for the 43-1 District Court in Hazel Park. Commissioner Krizan seconded the motion. The motion carried.

Ms. McCowan provided an overview of the revised plan and cost analysis submitted by the 27th District Court in Wyandotte. The staff recommendation is to approve both the plan and cost analysis resubmitted by the system. Commissioner Green moved that the staff recommendation be adopted. Ms. McAvoy seconded. The motion carried.

Ms. McCowan provided an overview of the four systems whose plans were previously approved but whose cost analyses were disapproved. The systems submitted revised cost analyses.

The staff recommendation is that the revised cost analyses for the following systems be approved. (these systems' compliance plans are already approved):

- Alger County
- 43-3 District Court - Madison Heights
- Kalamazoo County
- Roscommon County

Judge Fisher moved that the staff recommendation be adopted for the four systems listed above. Judge Collins seconded. The motion carried.

Ms. McCowan provided an overview of the plans submitted by Wayne County to date. Commissioner Green summarized the work of the General Increase to Plan Committee. Chair Puerner provided an overview of the materials distributed to the Commissioners for their review.

The staff recommendation is that the resubmitted compliance plan and resubmitted cost analysis be approved with the exception of the costs in line 109 of the cost analysis. This line item totals \$4.9 million and is for new construction at the criminal justice complex. Commissioners discussed the proposal.

Judge Fisher moved that the staff recommendation be adopted. Commissioner Green seconded the motion.

Commissioner DeLeeuw moved to amend Judge Fisher's motion by including approval of the full plan and the full cost analysis as submitted by the County, including the \$4.9 million for new construction at the criminal justice complex. Commissioner McAvoy seconded the amended motion.

After discussion, Chair Puerner called for a roll call vote. The amended motion failed with 4 yeas (DeLeeuw, Jones, McAvoy and Robinson Garrett) and 12 nays (Puerner, Brame, Buddin, Collins, Crampton, Fisher, Green, Krizan, McMillin, Shea, Swor and Walker).

The Chair placed Judge Fisher's original motion before the Commission for its consideration. The Chair called for a roll call vote. The motion prevailed with 15 yeas and 1 nay (Jones). The following members voted yea with an objection to the omission of the funding for the local jail being excluded from the approved cost analysis: Commissioners DeLeeuw, McAvoy, and Judge Robinson Garrett.

The Commission reviewed the meeting dates for 2021. Judge Fisher thanked Chair Puerner for his hard work and dedication and welcomed Judge Collins as the new MIDC Chair. Commissioners Crampton and Walker offered closing observations regarding systemic racism as it relates to the criminal legal system.

Judge Fisher moved that the meeting be adjourned. Commissioner Walker seconded. The meeting adjourned at 1:02 pm.

Respectfully submitted,
Marcela Westrate