

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held in person at the Michigan Bankers Association building in Lansing, Michigan. Remote access via Zoom was available for Commissioners and, upon request, for members of the public. The MIDC website and meeting notice included information for members of the public on how to contact the MIDC to obtain the Zoom link for participation. Commissioners were able to participate remotely if they qualified for an exemption under the Open Meetings Act or if they requested an accommodation under the Americans with Disabilities Act, 42 USC 12131 *et. seq.*, and Rehabilitation Act, MCL 395.81 *et. seq.*, pursuant to Attorney General Opinion No. 7318.

December 19, 2023

Time: 9:30 am

Michigan Bankers Association
507 S. Grand Ave, Lansing, MI 48933

Commission Members Participating

The following members participated in person:

- Chair Christine Green
- Thomas Adams
- Joshua Blanchard
- Tracey Brame
- Paul Bullock
- Judge James Fisher
- James Krizan
- Debra Kubitskey
- Judge Paula Mathes
- Margaret McAvoy
- Tom McMillin
- Alicia Moon
- Rob VerHeulen

The following member observed the meeting via Zoom but did not participate in the discussions:

- Andrew DeLeeuw

The following member requested an accommodation under the Americans with Disabilities Act to participate via Zoom:

- Gary Walker (Chocolay Township, Marquette County, Michigan)

The following Commissioners were absent:

- Kimberly Buddin
- John Shea

- William Swor

Chair Green called the meeting to order at 9:30 am.

Introduction of Commission members and guests

Chair Green invited guests to introduce themselves to the Commission.

Public Comment

The following people provided public comment:

- Jill Recker
- Peter Menna
- John Faul
- Rob Sarrow

Approval of Agenda

Commissioner McAvoy moved to add the issue of the MIDC's collection of attorney invoices for Standard 8 compliance to the agenda for discussion. Judge Fisher seconded. The motion carried.

Commissioner McMillin moved to approve the agenda as amended. Commissioner Krizan seconded. The motion carried.

Consent Agenda

Chair Green removed the October 2023 minutes from the consent agenda. Commissioner VerHeulen moved that the minutes be corrected to reflect Commissioner DeLeeuw was the Chair of the Nominating Committee, and that the minutes be approved as amended. Commissioner Krizan seconded. The motion carried.

Chair Report

Chair Green gave a brief report and encouraged Commissioners to review the "Gideon at 60" report published by the National Institute of Justice.

Executive Director Report

Executive Director Staley gave an overview of the issue and the need for the invoices as supported by the Department of Licensing and Regulatory Affairs and the Experis auditors with whom the MIDC contracted. Ms. McCowan and Dr. Siegel answered Commissioners' questions.

Commissioner Blanchard moved to refer the issue to the Data Committee with the directive that the committee work with staff, and that staff inform all members of the Commission of the committee's meeting dates. Commissioner Brame seconded. The motion carried.

Commissioner Bullock moved that the implementation of the reporting requirements for the attorney invoices be suspended until the committee has met, reviewed the issue, and made a recommendation to the Commission. Commissioner Kubitskey seconded. The motion carried.

Commission Business

Standing Committee Reports

Chair Green provided an update on the Executive Committee's meeting. The committee drafted the agenda for the meeting and discussed the Executive Director's evaluation.

Commissioner Blanchard provided an update on the Performance Standards committee. The committee will meet in January.

Commissioner Brame provided an overview of the Training and Evaluation Committee. She updated Commissioners on the committee's activities. The committee will meet again in January.

Ad hoc Committee Reports

In Commissioner Jones' absence, Chair Green gave an overview of the Equity and Inclusion Committee's meeting.

Executive Director Staley provided an update on the Legislation and Court Rules Committee's meeting.

In Commissioner DeLeeuw's absence, Commission Blachard provided an overview of the Nominations Committee's recommendations. The committee recommends the following Commissioners to serve as officers for the term beginning January 1, 2024 and concluding December 31, 2024: Christine Green, Chair, Tracey Brame, Vice Chair, and Gary Walker, Secretary. The committee recommends that Judge Fisher serve as an ex officio and non-voting member of the Executive Committee. The committee also recommends that the bylaws committee look at expanding the Executive Committee.

Commissioner McMillin moved to approve the slate recommended by the Nominations Committee. Commissioner Adams seconded. The motion carried.

FY24 Compliance Planning

Ms. McCowan provided an overview Alpena County's request for a plan change to implement a contract for traffic and miscellaneous low-level misdemeanor cases handled by the Northeast Michigan Regional Defender Office in FY23. A local law firm would contract with the office to handle these cases.

Commissioner VerHeulen moved that the plan change requested by Alpena County be approved. Judge Fisher seconded. Chair Green requested a roll call vote. The motion carried with 9 yeas (Green, Adams, Blanchard, Brame, Fisher, Krizan, McMillin, VerHeulen, and Walker) and 4 nays (Bullock, Kubitskey, Mathes, and McAvoy).

Ms. McCowan provided an overview of the plan change requested by the City of Southfield. The City would like to change its plan to pay arraignment attorneys for shifts rather than by the hour. The City would like to use a 2.5 hour morning shift with a payment of \$300, and a 2 hour afternoon, weekend, and holiday shift that would pay \$240. If a shift exceeds the estimated hours, attorneys would be paid \$120/hour using 0.25/hour increments.

Commissioner Adams moved that the compliance plan change requested by the City of Southfield be approved. Commissioner Bullock seconded. The motion carried.

Nicole Smithson, Regional Manager for the Lenawee, Oakland, Macomb and St. Clair Region, provided an update on the activities in her region.

Commissioner McAvoy moved that that the Commission begin a closed session under MCL 15.268(1)(a) to consider the periodic personnel evaluation of Ms. Staley and under MCL 15.268(1)(h) to consider material exempt from disclosure under section 13(1)(g) of the Freedom of Information Act. Commissioner Adams supported the motion. Chair Green requested a roll call vote. The motion carried with 14 yeas: Green, Adams, Blanchard, Brame, Bullock, Fisher, Krizan, Kubitskey, Mathes, McAvoy, McMillin, VerHeulen, and Walker and 0 nays.

The Commission moved to closed session at 12:36 pm.

The Commission returned to open session after a motion from Commissioner Blanchard, seconded by Judge Fisher. The motion carried with 14 yeas: Green, Adams, Blanchard, Brame, Bullock, Fisher, Krizan, Kubitskey, Mathes, McAvoy, McMillin, VerHeulen, and Walker and 0 nays.

The Commission returned to open session at 2:14 pm.

Commissioner Blanchard moved that the Executive Director be given a high performance rating and that her contract be extended for two years at a rate of \$173,568 subject to cost of living increases. Chair Green requested a roll call vote. The motion carried, with 10 yeas (Green, Adams, Blanchard, Brame, Bullock, Fisher, Krizan, Mathes, McMillin, and Walker) and 3 nays (Kubitskey, McAvoy, and VerHeulen). Commissioners Kubitskey and McAvoy stated that they were not dissatisfied with the Executive Director's performance, but voted no because of the language regarding the cost of living increases. Commissioner VerHeulen stated that he was not dissatisfied with the Executive Director's performance but was not comfortable supporting the motion because of the lack of information about the regulations and the flexibility that the Commission has.

The meeting adjourned at 2:22 pm.

The Commission will meet on the following dates in 2024:

- February 20, 2024, 11:00 am rest are at 9:30 am
- April 30, 2024, 9:30 am
- June 25, 2024, 9:30 am
- August 20, 2024, 9:30 am
- October 15, 2024, 9:30 am
- December 17, 2024, 9:30 am