

CHAIRPERSON
BRYAN CRENSHAW

VICE-CHAIRPERSON
CAROL KOENIG

VICE-CHAIRPERSON PRO-TEM
ROBIN NAEYAERT

LAW & COURTS COMMITTEE
DERRELL SLAUGHTER, CHAIR
MARK POLSDOFER
VICTOR CELENTINO
BRYAN CRENSHAW
RYAN SEBOLT
CHRIS TRUBAC
RANDY SCHAFFER

INGHAM COUNTY BOARD OF COMMISSIONERS
P.O. Box 319, Mason, Michigan 48854 Telephone (517) 676-7200 Fax (517) 676-7264

THE LAW & COURTS COMMITTEE WILL MEET ON THURSDAY, FEBRUARY 13, 2020 AT 6:00 P.M., IN CONFERENCE ROOM D & E, HUMAN SERVICES BUILDING, 5303 S. CEDAR, LANSING.

Agenda

Call to Order

Approval of the [January 30, 2020 Minutes](#)

Additions to the Agenda

Limited Public Comment

1. Sheriff's Office
 - a. Resolution to Establish an Imprest [Cash Account](#) for the Ingham County Sheriff's Office Detective Bureau
 - b. Resolution to Authorize a Contract for Services with Danielle Patrick to Audit Evidence and [Evidence](#) Records at the Ingham County Sheriff's Office
 - c. Resolution to Purchase a Transport Van [Containment System](#) for the ICISO Transport Division
2. Prosecuting Attorney's Office – Resolution to Accept an Agreement between the Michigan Department of Health and Human Services and the Ingham County Prosecutors Office Under the 2020 [Stop Violence Against Women](#) Grant
3. Public Defenders Office
 - a. Resolution to Authorize the Conversion of [Clerk Public Defender](#) Position to Full-Time
 - b. Quarterly Update (*informational item*)
4. Board Referrals – Letter from State Senator Curtis Hertel, Jr. Concerning a Request for [Formal Opinion](#) from Attorney General Dana Nessel

Announcements

Public Comment

Adjournment

**PLEASE TURN OFF CELL PHONES OR OTHER ELECTRONIC DEVICES
OR SET TO MUTE OR VIBRATE TO AVOID DISRUPTION DURING THE MEETING**

The County of Ingham will provide necessary reasonable auxiliary aids and services, such as interpreters for the hearing impaired and audio tapes of printed materials being considered at the meeting for the visually impaired, for individuals with disabilities at the meeting upon five (5) working days notice to the County of Ingham. Individuals with disabilities requiring auxiliary aids or services should contact the County of Ingham in writing or by calling the following: Ingham County Board of Commissioners, P.O. Box 319, Mason, MI 48854 Phone: (517) 676-7200. A quorum of the Board of Commissioners may be in attendance at this meeting. Meeting information is also available on line at www.ingham.org.

LAW & COURTS COMMITTEE
January 30, 2020
Draft Minutes

Members Present: Celentino, Crenshaw, Polsdofer, Sebolt, Slaughter, Trubac.

Members Absent: Schafer.

Others Present: Judge Thomas P. Boyd, Treasurer Eric Schertzing, Commissioner Koenig, Heidi Williams, Michael Cheltenham, Teri Morton, Elizabeth Noel, Michael Tanis, and others.

The meeting was called to order by Chairperson Slaughter at 6:00 p.m. in Personnel Conference Room D & E of the Human Services Building, 5303 S. Cedar Street, Lansing, Michigan.

Approval of the January 16, 2020 Minutes

MOVED BY COMM. CRENSHAW, SUPPORTED BY COMM. CELENTINO, TO APPROVE THE MINUTES OF THE JANUARY 16, 2020 LAW & COURTS COMMITTEE MEETING.

THE MOTION CARRIED UNANIMOUSLY. Absent: Commissioner Schafer.

Additions to the Agenda

None.

Limited Public Comment

None.

MOVED BY COMM. CELENTINO, SUPPORTED BY COMM. SEBOLT, TO APPROVE A CONSENT AGENDA CONSISTING OF THE FOLLOWING ITEMS:

2. Prosecuting Attorney's Office – Resolution to Authorize a Memorandum of Understanding between the Department of the Attorney General, the Ingham County Prosecutor's Office, and the Jackson County Prosecutor's Office, Aware Inc., and a Sub-Contract with End Violent Encounters (EVE)
3. Public Defenders Officer
 - a. Resolution to Approve an Agreement with the City of East Lansing for its Local Share Contribution under the County's Michigan Indigent Defense Commission (MIDC) 2019-2020 Compliance Plan
 - b. Resolution to Approve an Agreement with the City of Lansing for its Local Share Contribution under the County's Michigan Indigent Defense Commission (MIDC) 2019-2020 Compliance Plan

4. Animal Control
 - a. Resolution to Authorize a Memorandum of Understanding between Capital Area Humane Society Spay/Neuter Clinic and Ingham County Animal Control

THE MOTION CARRIED UNANIMOUSLY. Absent: Commissioner Schafer.

THE MOTION TO APPROVE THE ITEMS ON THE CONSENT AGENDA CARRIED UNANIMOUSLY. Absent: Commissioner Schafer.

1. Hon. Thomas P. Boyd – Presentation on Recommendations of the Michigan Joint Task Force on Jail and Pretrial Incarceration

Judge Thomas P. Boyd, 55th District Court, presented the Report and Recommendations of the Michigan Joint Task Force on Jail and Pretrial Incarceration to the Law & Courts Committee.

Commissioner Koenig asked if Judge Boyd would send a copy of the Report and Recommendations to the Board of Commissioners.

Judge Boyd stated yes.

Commissioner Crenshaw thanked Judge Boyd for his presentation to the Law & Courts Committee. He further asked what the appetite was for the Michigan Legislature to fund the recommendations.

Judge Boyd stated that a reporter had asked Lieutenant Governor Garlin Gilchrist a similar question, and that he was quoted saying that criminal justice reform was a priority, and the State of Michigan funded their priorities.

Chairperson Slaughter asked what the County could do to implement these recommendations.

Judge Boyd stated that, in 2013, he had helped to rewrite the law relating to how preliminary exams were conducted, and one of the revisions included the encouragement to accept more felony pleas in the District Court. He further stated that the County had not taken full advantage of the law. He further stated that he hoped the creation of the Screening Attorney position would address this concern.

Judge Boyd stated that he supported an increase of funding to the Corrections Medical Department, and also encouraged the Board of Commissioners to conduct studies to determine if the County was paying competitive wages to employees.

4. Animal Control
 - b. Resolution to Authorize a Reorganization of the Ingham County Animal Control and Shelter (*Discussion*)

Heidi Williams, Animal Control Director, stated that the lack of a Deputy Animal Control Director constrained her abilities to lead and oversee the Animal Control and Shelter. She further stated that the current structure of the Department required employees to direct to numerous supervisors, which had led to feelings of inequalities between the employees.

Commissioner Crenshaw asked what Collective Bargaining Unit consisted of the Animal Care Giver Manager position.

Discussion.

Teri Morton, Deputy Controller, stated that the position was an at-will, Managerial & Confidential position.

Discussion.

Commissioner Celentino stated that he supported the resolution.

Commissioner Sebolt asked if there was a Collective Bargaining Unit involved.

Ms. Williams stated no.

Ms. Morton stated that one of the Animal Care Giver workers would be designated as lead worker.

Discussion.

Ms. Morton stated that she would forward her communication with the Capital City Labor Program (CCLP) union to the Law & Courts Committee.

Commissioner Sebolt stated that, because of the issues with Animal Control in 2018, he wanted to be sure that the reorganization of the Animal Control and Shelter would continue to allow for direct oversight from the Board of Commissioners.

Ms. Williams stated that she agreed with Commissioner Sebolt. She further stated that she made sure to include several of the animal care responsibilities in the Deputy Animal Control Director job description.

Chairperson Slaughter stated that he supported the resolution.

MOVED BY COMM. CELENTINO, SUPPORTED BY COMM. CRENSHAW, TO APPROVE THE RESOLUTION.

Commissioner Sebolt stated that he would vote against approving the resolution at this time, though he supported the addition of the position, because he wanted to follow the reorganization process.

THE MOTION TO APPROVE THE RESOLUTION CARRIED. **Yeas:** Slaughter, Polsdofer, Celentino, Crenshaw, Trubac **Nays:** Sebolt **Absent:** Schafer

Discussion.

5. Law and Courts Committee – Resolution Submitting to a Vote of the Electorate a Special Millage for Continuing Comprehensive Emergency Telephone Services (911 Services)

MOVED BY COMM. CRENSHAW, SUPPORTED BY COMM. CELENTINO, TO APPROVE THE RESOLUTION.

Ms. Morton stated that there was a minimal implication if the 9-1-1 Services millage were to be changed from a four-year renewal to a ten-year renewal. She further stated that it was related to the Headlee millage rollback, and while a Headlee millage rollback had not happened since 2006, she was unsure if it would pose a problem.

Commissioner Sebolt asked if the Board of Commissioners could renew the millage earlier.

Ms. Morton stated that she was unsure.

Discussion.

Commissioner Sebolt asked, when the Headlee millage override was previously approved, if it was for the General Operating millage or if it rolled back another millage.

Ms. Morton stated that it was for the General Operating millage.

Commissioner Trubac asked the Commissioners should table the Resolution and if legal counsel could provide Headlee millage clarification to the committee.

Commissioner Celentino stated that the millage language did not need to be approved until May in order to be placed on the August 2020 Election ballot.

Discussion.

Commissioner Celentino asked Ms. Morton to provide clarification to the Commissioners before the next Law & Courts Committee meeting.

MOVED BY CELENTINO, SUPPORTED BY SEBOLT, TO TABLE THE RESOLUTION PENDING LEGAL COUNSEL CLARIFICATION ON MILLAGE RENEWAL.

THE MOTION TO TABLE THE RESOLUTION CARRIED UNANIMOUSLY. Absent: Commissioner Schafer.

Announcements

None.

Public Comment

None.

Adjournment

The meeting was adjourned at 7:02 p.m.

**February 13, 2020 LAW & COURTS AGENDA
STAFF REVIEW SUMMARY**

RESOLUTION ACTION ITEMS:

The Deputy Controller recommends approval of the following resolutions:

1a. Sheriff's Office – Resolution to Establish an Imprest Cash Account for the Ingham County Sheriff's Office Detective Bureau

This resolution will authorize the Ingham County Sheriff's Office to establish and maintain an Imprest Cash Account in the amount of \$250 for investigative expenses. The Sheriff's Office Detective Bureau is often required to make unexpected purchases while working on investigations. These expenses have historically been "out of pocket" and later reimbursed through the County's expense reimbursement procedure. Establishing an Imprest Cash Account for the Detective Bureau, will allow the Detective Sergeant to cover and document these expenses in a more efficient manner.

1b. Sheriff's Office – Resolution to Authorize a Contract for Services with Danielle Patrick to Audit Evidence and Evidence Records at the Ingham County Sheriff's Office

This resolution will authorize a contract with the Danielle Patrick to Audit Evidence and Evidence Records for the time period of April 20, 2020 to July 20, 2020 at a cost not to exceed \$14,400.00. The Sheriff's Office has worked over the past two years to reconcile evidence and evidence related records. This work was overseen by Lieutenant Danielle Patrick, who recently retired from the Sheriff's Office. There is an ongoing need to complete all audits, inventories and entry of evidence in the custody of the Sheriff's Office to meet current evidence recording standards and in preparation for moving into a new facility. A two phase project has been proposed. After those two phases are completed, an additional contract may be proposed. The Sheriff's Office has identified funding within its budget to pay for this contract.

1c. Sheriff's Office – Resolution to Purchase a Transport Van Containment System for the ICSO Transport Division

This resolution will authorize the Ingham County Sheriff's Office to purchase a Havis, three Compartment Containment Unit at a total cost, including installation of \$21,048.90. This will be installed in a Transport Division Van. The Sheriff's Office is transitioning to this system in all of the Transport Division vans. A similar containment system was quoted for a cost of \$23,699.88, which did not include installation. The requested funding source is the 2020 contingency account.

2. Prosecuting Attorney's Office – Resolution to Accept an Agreement Between the Michigan Department of Health and Human Services and the Ingham County Prosecutors Office Under the 2020 STOP Violence Against Women Grant

This resolution will authorize a grant from the Michigan Department of Health and Human Services (MDHHS) to the Ingham County Prosecutor's Office (ICPO) in the amount of \$106,615 under the STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Act of 1994. The grant is awarded to county prosecutors to develop and strengthen the criminal justice system's response to violence against women. ICPO partnered with the Lansing Police Department (LPD) and the 54-A District Court in applying for the grant.

Each agency made a separate application and all three agencies were awarded the grant. The 54-A District Court is using the award to set up a domestic violence specialty court. LPD is using the grant to hire a domestic violence investigator. ICPO wishes to hire a full time assistant prosecuting attorney assigned solely to the prosecution of domestic violence and intimate partner violence.

The STOP grant award is for a total of \$106,615. Of that amount, \$79,961 will cover salary and fringes for a new entry level APA position, classified as ICEA-APA Step 01, from January 1, 2020 through September 30, 2020. This position will be eliminated effective October 1, 2020, unless a source of funding is identified.

The remaining \$26,654 is an “in-kind” contribution of ICPO resources. These expenses are not anticipated to require any increase in ICPO’s 2020 budget.

See memo for details.

3a. *Public Defenders Office – Resolution to Authorize the Conversion of Clerk Public Defender Position to Full-Time*

Currently, the Public Defenders Office staff includes two full-time Clerks and one part-time Clerk, based on the estimated workload of the office. In the 2019-2020 MIDC grant request from the Public Defenders Office, an increase of the part-time Clerk to full-time was requested, and was approved. This resolution would approved this increase, which has a long term cost of \$35,866. The position is a UAW/D classification.

See memo for details.

PRESENTATION:

3b. *Public Defenders Office – Quarterly Update*

Agenda Item 1a

TO: Law & Courts and Finance Committees

FROM: Undersheriff Andrew R. Bouck, Ingham County Sheriff's Office

DATE: January 29, 2020

RE: RESOLUTION TO ESTABLISH AN IMPREST CASH ACCOUNT FOR THE
INGHAM COUNTY SHERIFF'S OFFICE DETECTIVE BUREAU

The Ingham County Sheriff's Office Detective Bureau is often required to make unexpected purchases while afield and actively working investigations. These investigative expenses have historically come "out of pocket" and were ultimately reimbursed after completing and submitting the required reimbursement forms. In establishing an Imprest Cash Account in the amount of Two Hundred and Fifty Dollars (\$250.00) for the Detective Bureau, the Detective Sergeant will be able to cover and document these expenses in a much more efficient manner.

The funding source for this Imprest Cash account will be via the Treasurer's Office, General Fund/Account #101-018000.

Introduced by the Law and Courts and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION TO ESTABLISH AN IMPREST CASH ACCOUNT FOR THE
INGHAM COUNTY SHERIFF'S OFFICE DETECTIVE BUREAU**

WHEREAS, the Ingham County Sheriff's Office Detective Bureau is often required to make unexpected purchases while afield and actively working investigations; and

WHEREAS, these investigative expenses have historically come "out of pocket" and were ultimately reimbursed after completing and submitting the required reimbursement forms; and

WHEREAS, in establishing an Imprest Cash Account for the Detective Bureau, the Detective Sergeant will be able to cover and document these expenses in a much more efficient manner; and

WHEREAS, funding for this Imprest Cash account will be via the Treasurer's Office, General Fund / Account #101-018000.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners authorizes the Ingham County Sheriff's Office to establish and maintain an Imprest Cash Account in the amount of Two Hundred and Fifty Dollars (\$250.00) for investigative expenses.

Agenda Item 1b

TO: Law & Courts and Finance Committees

FROM: Undersheriff Andrew R. Bouck, Ingham County Sheriff's Office

DATE: January 29, 2020

RE: RESOLUTION TO AUTHORIZE A CONTRACT FOR SERVICES WITH DANIELLE PATRICK TO AUDIT EVIDENCE AND EVIDENCE RECORDS AT THE INGHAM COUNTY SHERIFF'S OFFICE

The Ingham County Sheriff's Office (ICSO) has endeavored over the past two years to reconcile evidence and evidence related records. This work was overseen by Lieutenant Danielle Patrick, who has recently retired from the Sheriff's Office. There is an ongoing need to complete all audits, inventories and entry of evidence in the custody of ICSO to meet current evidence recording standards and in preparation for moving into a new facility. A two phase project has been proposed. After those two phases are completed, an additional contract may be proposed. Danielle Patrick (ICSO Ret.) is willing, able and highly qualified to continue to work on this project in a contractual capacity with the County. The Sheriff's Office has identified funding within its budget (Special Units #10130110) to pay for this contract, at a cost not to exceed \$14,400.00.

Introduced by the Law & Courts and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

RESOLUTION TO AUTHORIZE A CONTRACT FOR SERVICES WITH DANIELLE PATRICK TO AUDIT EVIDENCE AND EVIDENCE RECORDS AT THE INGHAM COUNTY SHERIFF'S OFFICE

WHEREAS, the Ingham County Sheriff's Office (ICSO) has endeavored over the past two years to reconcile evidence and evidence related records; and

WHEREAS, this work was overseen by Lieutenant Danielle Patrick, who has recently retired from the Sheriff's Office; and

WHEREAS, there is an ongoing need to complete all audits, inventories and entry of evidence in the custody of ICSO to meet current evidence recording standards and in preparation for moving into a new facility; and

WHEREAS, Danielle Patrick is willing, able and highly qualified to continue to work on this project in a contractual capacity with the County; and

WHEREAS, a two phase project has been proposed, to include a pre-2012 Evidence Review and a Review of all Evidence not located in a Records Management System; and

WHEREAS, after these two phases are completed, an additional contract may be proposed for a 2016-2017 Evidence Data Review in the previous Records Management System; and

WHEREAS, the Sheriff's Office has identified funding (#10130110) within its budget to pay for this contract.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners hereby authorizes a contract with the Danielle Patrick to Audit Evidence and Evidence Records for the time period of April 20, 2020 to July 20, 2020 at a cost not to exceed \$14,400.00.

BE IT FURTHER RESOLVED, that the Controller/Administrator is authorized make any necessary adjustments to the 2020 budget consistent with this resolution.

BE IT FURTHER RESOLVED, that the Ingham County Board of Commissioners authorizes the Board Chair to sign any necessary contract/purchase order documents that are consistent with this resolution and approved as to form by the County Attorney.

Agenda Item 1c

TO: Law & Courts and Finance Committees

FROM: Undersheriff Andrew R. Bouck, Ingham County Sheriff's Office

DATE: January 29, 2020

RE: RESOLUTION TO PURCHASE A TRANSPORT VAN CONTAINMENT
SYSTEM FOR THE ICSO TRANSPORT DIVISION

The Ingham County Sheriff's Office is requesting authorization to purchase a Havis, three (3) Compartment Containment Unit to be installed in an ICSO Transport Division van. The ICSO is transitioning to this system in all of the Transport Division vans. The total expense would be: \$21,048.90, installed. The other/like containment system quoted was for \$23,699.88 and did not include the cost of installation.

The Sheriff's Office is requesting that this purchase be funded by the Contingency Account.

Introduced by the Law and Courts and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION TO PURCHASE A TRANSPORT VAN CONTAINMENT SYSTEM
FOR THE ICSO TRANSPORT DIVISION**

WHEREAS, the Ingham County Sheriff's Office (ICSO) has identified the need to outfit an additional ICSO Transport Van with a containment unit; and

WHEREAS, it is important for consistency, safety and security purposes to run the same systems in the vehicles operated by the Transport Division; and

WHEREAS, the Ingham County Sheriff's Office is transitioning to this system in all of the Transport Division vans.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners authorizes the Ingham County Sheriff's Office to purchase a Havis, three (3) Compartment Containment Unit, total cost installed for \$21,048.90 from the Contingency Account.

BE IT FURTHER RESOLVED, that the Ingham County Board of Commissioners authorizes the Board Chairperson to sign any necessary contract documents or purchase documents that are consistent with this resolution and approved as to form by the County Attorney.

Agenda Item 2

TO: Board of Commissioners Law & Courts, Finance, and County Services Committees

FROM: Mike Cheltenham, Chief Assistant Prosecuting Attorney

DATE: February 3, 2020

SUBJECT: Resolution to Authorize an Agreement between the Michigan Department of Health and Human Services and the Ingham County Prosecutor's Office under the 2020 STOP Violence Against Women Grant

BACKGROUND

The Michigan Department of Health and Human Services (MDHHS) has awarded the Ingham County Prosecutor's Office (ICPO) a grant in the amount of \$106,615 under the STOP Violence Against Women Act of 1994. The STOP (Services, Training, Officers, and Prosecutors) grant is awarded to county prosecutors to develop and strengthen the criminal justice system's response to violence against women. This particular grant is for a focused, coordinated, and multidisciplinary approach to holding domestic violence offenders accountable. To that end, ICPO partnered with the Lansing Police Department (LPD) and the 54-A District Court in applying for the grant. Each agency made a separate application and all three agencies were awarded the grant. The 54-A District Court is using the award to set up a domestic violence specialty court. LPD is using the grant to hire a domestic violence investigator. ICPO wishes to hire a full time assistant prosecuting attorney assigned solely to the prosecution of domestic violence and intimate partner violence.

ALTERNATIVES

If the grant is not accepted, then these new services will not be implemented.

FINANCIAL IMPACT

The STOP grant award is for a total of \$106,615. Of that amount, \$79,961 is provided in actual funding from MDHHS. The remaining \$26,654 is an "in-kind" contribution of ICPO resources. This non-monetary contribution is made by providing work space, supplies, equipment, and other resources. These expenses are not anticipated to require any increase in ICPO's 2020 budget. The actual monetary funding limit of \$79,961 will cover salary and fringes for an entry level APA position, classified as ICEA-APA Step 01, from January 1, 2020 through September 30, 2020.

OTHER CONSIDERATIONS

The grant requires meaningful coordination and collaboration with other criminal justice agencies. To accomplish this goal, the 54-A District Court, LPD, and ICPO will engage in a "focused deterrence" approach for domestic violence offenders in the city of Lansing. Focused deterrence aims to deter acts of intimate partner violence by imposing specific sanctions for engaging in criminal acts and specific benefits for not offending.

RECOMMENDATION

Based on the information provided, I respectfully request approval of the attached resolution.

Introduced by the Law & Courts, County Services and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

RESOLUTION TO ACCEPT AN AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE INGHAM COUNTY PROSECUTORS OFFICE UNDER THE 2020 STOP VIOLENCE AGAINST WOMEN GRANT

WHEREAS, the Ingham County Prosecutor's Office (ICPO) has been approved to receive grant funds in the amount of \$106,615 from the STOP Violence Against Women Grant program administered by the Michigan Department of Health and Human Services (MDHHS) for the period of January 1, 2020 through September 30, 2020; and

WHEREAS, the primary goal of the STOP Grant is to develop and strengthen the criminal justice system's response to violence against women and to enhance victim services; and

WHEREAS, the grant award of \$106,615 will be broken down as follows: \$79,961 of the grant award will fund salary and fringe benefits for a full time assistant prosecuting attorney dedicated to the prosecution of domestic violence and intimate partner violence; and the remaining \$26,654 of the grant award is an "in kind" contribution from the Ingham County Prosecutor's Office for supplies, work space, and equipment which requires no actual monetary contribution from the county; and

WHEREAS, upon authorization to accept the grant, ICPO will use the funding to create a full time assistant prosecuting attorney position to be classified as ICEA APA Step 01; and

WHEREAS, in achieving the goals and objectives of the grant program the ICPO will work in collaboration with the 54-A District Court for the city of Lansing, and the Lansing Police Department, both of whom also received grant awards under this program, to enact a focused deterrence approach to the issue of domestic violence and intimate partner violence within the City of Lansing.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners has accepted \$106,651 awarded by the STOP Grant which begins on January 1, 2020 and ends on September 30, 2020.

BE IT FURTHER RESOLVED, that a new Assistant Prosecuting Attorney (ICEA APA01) position is created and authorized through September 30, 2020.

BE IT FURTHER RESOLVED, that, unless a funding source is identified and approved by the Board of Commissioners, this position will be eliminated effective October 1, 2020.

BE IT FURTHER RESOLVED that the Controller/Administrator is authorized to make any necessary adjustments to the 2020 budget and position allocation lists consistent with this resolution.

BE IT FURTHER RESOLVED, that the Board Chairperson is authorized to sign any necessary contracts/subcontracts consistent with this resolution subject to approval as to form by the County Attorney.

Agenda Item 3a

TO: Board of Commissioners Law & Courts, County Services and Finance Committees
FROM: Teri Morton, Deputy Controller
DATE: February 5, 2020
SUBJECT: Resolution to Authorize the Conversion of Clerk Public Defender Position to Full-Time
For the meeting agendas of February 13, 18 and 19

BACKGROUND

When the Public Defenders Office was created, staffing included two full-time Clerks and one part-time Clerk, based on the estimated workload of the office. Filling the part-time position with a qualified candidate proved to be challenging, and once the office was operational, it was apparent that the workload justified the increase of the part-time Clerk to full-time. The 2019-2020 MIDC grant request from the Public Defenders Office included this increase, which was funded.

ALTERNATIVES

The Public Defenders Office staffing level could remain as is, and the office will continue its efforts to fill the position at part-time.

FINANCIAL IMPACT

The long term cost to increase this position from part-time to full-time is \$35,866, which is included in the 2019-2020 MIDC grant budget. The position is a UAW/D classification.

STRATEGIC PLANNING IMPACT

This resolution supports the overarching long-term objective of assuring fair and efficient judicial processing, specifically section A 2. (c) of the Action Plan – Develop an indigent defense services plan following guidelines issued by the State through the Michigan Indigent Defense Commission (MIDC).

OTHER CONSIDERATIONS

The UAW is supportive of this increase in staffing.

RECOMMENDATION

Based on the information presented, I respectfully recommend approval of the attached resolution.

Introduced by the Law & Courts, County Services and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION TO AUTHORIZE THE CONVERSION OF CLERK PUBLIC DEFENDER
POSITION TO FULL-TIME**

WHEREAS, position #144005, Clerk Public Defender (UAW/D), is classified as a part-time position; and

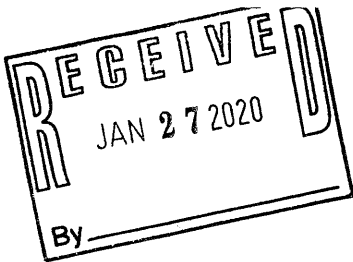
WHEREAS, the FY20 grant approved by the State of Michigan, the Michigan Indigent Defense Commission (MIDC), and the Department of Licensing and Regulatory Affairs (LARA), and the Ingham County Board of Commissioners included funding to increase this part-time position to full-time; and

WHEREAS, UAW Local 2256 is in support of this staffing increase.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners approves converting position #144005, Clerk Public Defender, from part-time to full-time.

BE IT FURTHER RESOLVED, that this change shall be effective the first pay period after the adoption of this Resolution, to be funded from the MIDC FY20 grant.

BE IT FURTHER RESOLVED, that the Controller/Administrator is authorized to make any necessary budget adjustments and changes to the position allocation list consistent with this resolution.



AGENDA ITEM# 4

DISTRICT 23
P.O. BOX 30036
LANSING, MI 48909-7536
PHONE: (517) 373-1734
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senchertel@senate.michigan.gov

CURTIS HERTEL JR.
STATE SENATOR
MICHIGAN SENATE

COMMITTEES:
APPROPRIATIONS (MVC)
ADVICE AND CONSENT (MVC)
HEALTH POLICY AND
HUMAN SERVICES
APPROPRIATIONS SUBCOMMITTEES:
HEALTH AND HUMAN SERVICES (MVC)
CAPITAL OUTLAY
UNIVERSITIES AND
COMMUNITY COLLEGES

January 9th, 2020

Dear Chairman Crenshaw and Ingham County Board of Commissioners,

Thank you for contacting my office and for your inquiry.

Representative Anthony and I have reviewed your inquiry and submitted a request for formal opinion on this matter from Attorney General Dana Nessel. Our offices will continue to keep the Board of Commissioners abreast of any updates or communication from the Office of the Attorney General throughout the opinion process, which can be a lengthy process.

Thank you again for reaching out to me with this issue. If you have any questions or if I may be of any assistance, please do not hesitate to contact my office.

Sincerely,

Curtis Hertel, Jr.
State Senator
District 23

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



DANA NESSEL
ATTORNEY GENERAL

M E M O R A N D U M

March 12, 2019

TO: All Members, Michigan Senate
All Members, Michigan House of Representatives

FROM: Kelly Keenan
Deputy Attorney General
Executive Division

RE: The Attorney General's Opinion Process

This memorandum was prepared at the request of the Attorney General to familiarize you with the Attorney General's opinion process. It is presented in a question and answer format in the hope that this will both offer you the greatest assistance in understanding what is involved in our process and ultimately help us to serve you better. As additional commonly asked questions arise, it is our plan to supplement this memorandum with updates so that we can continue to improve the manner in which we undertake this important responsibility.

What is an Attorney General opinion?

The origin and history of the office of Attorney General as legal advisor to the sovereign has been described as "ancient." *Mundy v McDonald*, 216 Mich 444, 450 (1921). The Attorney General's statutory duty to provide opinions to the Governor, the Legislature, and other state officers was first established in the Revised Statutes of 1846, chapter 12, section 32, MCL 14.32. That law has continued to provide in relevant part: "It shall be the duty of the attorney general, when required, to give his [or her] opinion upon all questions of law submitted to him [or her] by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer[.]" MCL 14.32.

The Attorney General's formal opinions are published biennially and appear in over 80 bound volumes dating back to 1867. Since 1961, more than 7000 formal opinions have issued, of which an overwhelming majority have been upheld by the Michigan appellate courts when challenged. See, e.g., *McPhail v Attorney General*, unpublished opinion of the Court of Appeals, decided November 9, 2004 (Docket No. 248126) (upholding Attorney General Opinion No 7125).

What is the legal effect of an Attorney General opinion?

As courts are only bound to follow published decisions of the Court of Appeals and of the Supreme Court, an opinion of the Attorney General is not binding on the judicial branch in accordance with separation of powers principles. The courts nevertheless accord Attorney General opinions respectful consideration and frequently rely on them as persuasive authority. See, e.g., *Cheboygan Sportsman Club v Cheboygan Co Prosecuting Attorney*, 307 Mich App 71, 83 (2014); *Williams v Rochester Hills*, 243 Mich App 539, 557 (2000), citing *Frey v Dep't of Management and Budget*, 429 Mich 315, 338 (1987), and *Indenbaum v Michigan Bd of Medicine*, 213 Mich App 263, 274 (1995). Within the executive branch, however, Attorney General opinions continue to command the allegiance of state agencies in accordance with a long line of cases consistently so holding. See, e.g., *Traverse City School Dist v Attorney General*, 384 Mich 390, 410, n 2 (1971). See also *Campbell v Patterson*, 724 F2d 41, 43 (CA 6, 1983), cert den 465 US 1107 (1984). But see, *East Grand Rapids School District v Kent Co*, 415 Mich 381, 394 (1982); *Danse Corp v City of Madison Heights*, 466 Mich 175, 182, n 6 (2002).

Similarly, although opinions of the Attorney General are not binding upon local units of government who are generally guided in their legal affairs by local counsel, a local unit's failure to follow an opinion of the Attorney General has been held by the courts to be relevant to a determination of whether it acted in good faith. See, e.g., *Michigan Beer & Wine Wholesalers Ass'n v Attorney General*, 142 Mich App 294, 300 (1985), and *Bond v Ann Arbor School Dist*, 383 Mich 693, 703 (1970). Thus, under certain circumstances, a local unit of government failing to follow an Attorney General opinion does so at its peril.

Who is entitled to receive an opinion of the Attorney General?

Only the persons listed in MCL 14.32 quoted above have "standing" to obtain an opinion of the Attorney General. These include the Governor, members of the Legislature, and other state officers. By office policy, county prosecuting attorneys may also request Attorney General opinions under certain limited circumstances given the Attorney General's role as chief law enforcement officer for the State of Michigan. See MCL 14.30 (providing the Attorney General an advisory role in matters pertaining to the duties of county prosecutors).

Constituents who otherwise lack standing under the statute to receive an opinion often prevail upon their legislators to request an opinion of the Attorney General on a matter of personal or local interest on their behalves. City, village, township, and county officers or school board members who similarly lack standing may ask their legislators to seek an Attorney General opinion on an issue generating local controversy or interest. Whenever possible, private citizens should be encouraged to seek the services of a private attorney and local officials should be encouraged to seek the services of their designated local counsel as authorized by law. While the Attorney General makes every effort to “turn down” as few requests from legislators as possible for lack of standing of the true party in interest, budgetary constraints require that we allocate our resources by prioritizing requests involving important questions of state policy ahead of those of purely local concern.

How are opinion requests processed?

An opinion request must be signed by the legislator and clearly state a legal question. Upon receipt of a proper request, a letter requesting an opinion is sent to the Assistant Attorney General for Law (AAGL) to review the question asked and to make a recommendation as to whether an opinion should issue, the category of opinion to be issued (formal published opinion, informal letter opinion, or informational letter), and the division within the office to which the request should be assigned based upon the expertise of the division. Upon preliminary approval of preparation of an opinion, the request is assigned to a division for appropriate analysis, research, and drafting of a proposed response to be returned to the AAGL within a specified time period.

Copies of the request are sent to the Governor and to appropriate state officials who are invited to offer input if an issue under consideration involves the performance of their duties or a subject matter of particular interest to their agency. An acknowledgment letter is usually sent to the requesting legislator advising that the request has been accepted for processing and indicating the file number that has been assigned to the request. This same process is followed for a formal opinion, letter opinion, or informational letter, except that the research and writing time may be shortened for informational letters because the question may be controlled by an existing opinion of the Attorney General or a recent court opinion. All opinion requests and their attachments as well as responses to opinion requests are public records subject to disclosure under the Freedom of Information Act, MCL 15.231 *et seq.* All opinion drafts, formal or otherwise, however, are strictly confidential.

How are opinion requests categorized for response?

As stated above, three general categories of response have developed over the years. The category of response assigned to a particular request rests within the sound discretion of the Attorney General, although a legislator's request for an informal response is generally honored. The category of response may also change as the review process unfolds and the relative importance of the issue raised merits reassessment.

1.) Formal opinions typically address significant or important questions or issues regarding which a need for uniform guidance has been identified. They are signed by the Attorney General and warrant publication.

2.) Formal letter opinions involve questions which should be addressed by the Attorney General but which are of relatively limited or specialized significance or impact and do not warrant publication. They are signed by the Attorney General but are not generally published.

3.) Informational letters are intended to be as helpful as possible to the reader and generally involve questions that have relatively clear or well-established answers or involve an issue that does not warrant publication. Requests typically falling within this category present issues of primarily local concern or involve particularized fact situations. Informational letters are not signed by the Attorney General and are for informational purposes only. They are not published and are technically not binding on state agencies. Most opinion requests fall into this category.

What factors will cause an opinion request to be turned down?

The Attorney General's authority to render opinions extends to questions of law; the Attorney General may not act as a fact finder. Thus, in addition to the standing factor discussed above, questions involving a combination of factual and legal issues will generally not be answered. Questions must not be vague, overly broad, or speculative, nor do questions involving an interpretation of local charters lend themselves to the opinion process. Similarly, questions involving collective bargaining agreements or other local contracts will generally be turned down. If a question is pending before an administrative agency or court, it will not be answered until after the administrative or judicial process has been concluded and only to the extent the question remains unresolved. Questions involving the

operation of the judicial branch of government will not be answered unless the request is made by the State Court Administrator.

What approval process is followed for formal letter opinions and informational letters?

After an initial draft of a formal letter opinion or an informational letter is returned to the AAGL for review and editing, it is further reviewed and approved by the division chief of the division to which the request was assigned. It may also be forwarded to another division of the office for further review if the issue raised involves the expertise of more than one division. All formal letter opinions and informational letters are also thoroughly cite-checked by a person assigned to the Opinions Division to assure the accuracy and currency of the authorities upon which the draft relies. The draft of a formal letter opinion or informational letter is then submitted to the Executive office for review and approval and sending. On occasion, certain informational letters and formal letter opinions may also be reviewed by the Opinion Review Board before submission to the Executive office or Attorney General.

What approval process is followed for formal opinions?

Upon review by the AAGL and appropriate editing or redrafting if required, the draft of a formal opinion is sent to the Attorney General's Opinion Review Board (ORB or Board) for collective consideration, review, and approval by its members. The ORB is comprised of the AAGL, who serves as its chair, and other senior attorneys in the office as designated by the Attorney General. The ORB may request that the drafter answer questions that arise, make changes in the draft, or even prepare a counterdraft. The ORB may also receive input from interested persons within or outside of state government. Upon approval of a draft by the Board, the formal proposed opinion is cite-checked and thereafter sent to the Executive office for review and approval. The draft is then submitted to the Attorney General for review and signature, and if approved, issuance, or further processing if changes or additional development are suggested.

How long does it take to receive a response to an opinion request?

The opinion process described above is designed to produce as legally sound an opinion as is possible. The Attorney General has set a high standard with a clear expectation that opinions will be thoroughly but expeditiously researched, cogently written for both lawyers and non-lawyers, and likely to withstand court challenge. This process takes time. Some requests may take no more than a few weeks to finalize because of the relatively straightforward question involved, while others of greater complexity may take several months or longer. Where an urgent

need has been identified, emergency requests have been turned around in a matter of days. Delays are often unavoidable, however, in the event, for example, that interested persons express a desire to offer input; or additional informational must be obtained before processing may continue; or a court case issues midway through processing and requires a complete change in course; or the person to whom the request is assigned with the requisite expertise in the subject area is unavailable for extended periods of time due to a trial or other press of business; and countless other scenarios that inevitably arise. We ask that you please be patient with us. The Attorney General assigns a high priority to your requests and we will continue to do all we can to meet your needs.

To whom should I direct my questions about a pending request?

All requests for expedited or emergency handling of an opinion request must be submitted to the Attorney General directly. Other inquiries may be directed to the Director of Legislative Affairs or to the Assistant Attorney General for Law.