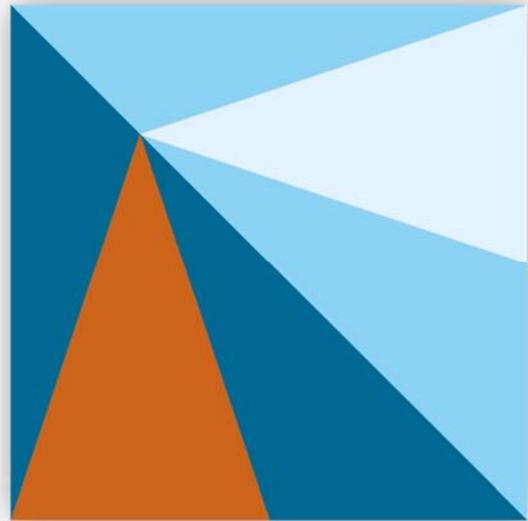


Impact Report



Michigan Indigent Defense Commission

2015

Summary from the Chair

The Michigan Indigent Defense Commission (MIDC) marked its first full year of work by hiring an Executive Director and a core staff of employees, undertaking a preliminary survey of data from every court in the state, proposing the first set of standards for indigent defense pursuant to the MIDC Act, and developing a timeline and plan for improving the quality of representation for people who are poor and accused of crimes in Michigan.

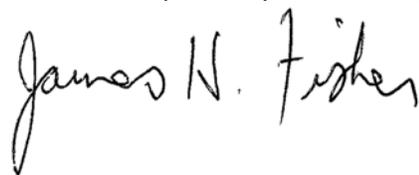
Our *Impact Report* details the creation and composition of the Commission and staff, information about our general operations, the ground we covered, how we are implementing change, and our recommendations and improvements for further action. The Commission met multiple times throughout the year in order to accomplish our goals.

The MIDC spent the better part of 2015 reaching out and learning from people in the criminal justice community about the work that needs to be done, and gathering ideas as to how to improve indigent defense.

All system stakeholders agree that improvements are necessary. With this spirit, Michigan has a tremendous opportunity to be a nationwide model for delivering the highest quality of representation to indigent defendants.

This *Impact Report* is presented pursuant to the requirements of MCL §780.989(h) and §780.999, and is available on our website at <http://michiganidc.gov/policies-and-reports/>.

Respectfully Submitted,

A handwritten signature in black ink that reads "James H. Fisher". The signature is written in a cursive style with a large, looped initial "J".

Hon. James H. Fisher (Retired)
Chair

Michigan Indigent Defense Commission



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The Michigan Indigent Defense Commission

Creation and Composition



In October 2011, Governor Rick Snyder issued Executive Order 2011-12, establishing the Indigent Defense Advisory Commission, a group of stakeholders that were responsible for recommending improvements to the state's legal system. These recommendations served as the basis for the legislation known as the Michigan Indigent Defense Commission Act, which the Governor signed into law in July 2013. The MIDC Act is found at MCL §780.981 *et. seq.*

Governor Snyder made appointments to the 15-member Commission beginning in the summer of 2014 pursuant to MCL §780.987:

Hon. James Fisher (Retired), Chair, Hastings

Represents members submitted by the Michigan Judges Association (Term Expires 4-1-18)

Judge Fisher serves as chair of the commission. He is an attorney Of Counsel with Dickinson Wright in Grand Rapids where his primary practice areas are arbitration and mediation. He previously served as chief judge of Barry County Circuit Court. He chaired the initial Indigent Defense Advisory Commission and is a director of Hastings City Bank. Judge Fisher earned a bachelor's degree in engineering from General Motors Institute and a law degree from Wayne State University.

Frank Eaman, Huntington Woods

Represents members submitted by the Criminal Defense Attorneys of Michigan (Term Expires 4-1-16)

Mr. Eaman is the owner of Frank D. Eaman PLLC. He previously worked with Bellanca, Beattie & DeLisle PC, Eaman & Ravitz PC, and Gage, Burgess, Knowx, Burgess & Eaman. He has been named a Michigan "Super Lawyer" since 2008 and is an ex-officio member of the Criminal Defense Attorneys of Michigan board. Eaman earned a bachelor's degree in international relations from the University of Chicago and a law degree from the University of Michigan.

Brandy Robinson, Detroit

Represents those whose primary mission or purpose is to advocate for minority interests (Term Expires 4-1-16)

Ms. Robinson is a research and writing specialist with the Legal Aid & Defender Federal Defender Office. She previously served as an assistant defender with the State Appellate Defender Office, was a law clerk for U.S. District Judge Julian Abele Cook Jr., and was an associate in the public law group at Miller, Canfield, Paddock and Stone. Robinson earned

a bachelor's degree in sociology and African-American studies and a law degree, both from the University of Michigan.

William Swor, Grosse Pointe Woods

Represents members submitted by the Criminal Defense Attorneys of Michigan (Term Expires 4-1-16)

Mr. Swor is a criminal defense attorney and has practiced federal criminal and immigration law for more than 40 years. He is on the board of directors of the Criminal Defense Attorneys of Michigan as well as the Arab Community Center for Economic and Social Services. Swor is a member of the Practitioners Advisory Group to the United States Sentencing Commission. Swor earned a bachelor's degree in political science from Oakland University and a law degree from Wayne State University.

John Shea, Chelsea

Represents members submitted by the Criminal Defense Attorneys of Michigan (Term Expires 4-1-16)

Mr. Shea has been in private practice since 1988. He has a trial practice in state and federal courts devoted primarily to criminal defense, but he also represents clients in commercial and real estate litigation, professional malpractice defense, and in proceedings before the Attorney Discipline Board and other disciplinary agencies. Mr. Shea is a graduate of the University of Michigan (BA Economics, 1979) and the University of Michigan Law School (JD, 1982). He is a member of the State Bar of Michigan (Chair, Prisons/Corrections Council 2011-2013); Washtenaw County, Illinois State and American Bar Associations; National Association of Criminal Defense Lawyers; Criminal Defense Attorneys of Michigan (Rules/Laws Committee, Co-Chair 2008-present); Criminal Defense Lawyers of Washtenaw County (President, 1992-1994), and the ACLU of Michigan. He also is a Fellow of the American Board of Criminal Lawyers and the Michigan State Bar Foundation.

“This legislation marked an important first step for reform so that Michigan may guarantee the constitutional right to counsel for low-income individuals facing criminal charges.”

--Governor Rick Snyder
Speaking about the MIDC Act in the
2015 Criminal Justice Special Message

Richard Lindsey, Marshall

Represents members submitted by the Speaker of the House of Representatives (Term Expires 4-1-17)

Mr. Lindsey is the corporate counsel of Calhoun County where he represents the board of commissioners, county elected officials and all boards and commissions associated with the county. Previously he served as a shareholder with Marcoux Allen PC, specializing in corporate, municipal and local government law. He serves on the Marshall School Board and is secretary of the Marshall Township Planning Commission. Mr. Lindsey earned a bachelor's degree in history from Albion College and a law degree from George Washington University.

Tom McMillin, Rochester Hills

Represents members submitted by the Speaker of the House of Representatives (Term Expires 4-1-17)

Mr. McMillin is the owner of Michigan Community Auditors PLLC., and recently served as a Michigan State Representative. He serves as treasurer and board member of Crossroads Pregnancy Center in Auburn Hills, and is a certified public accountant. Mr. McMillin earned a bachelor's degree from the University of Michigan.

Shela Motley, Okemos

Represents members submitted by the Senate Majority Leader (Term Expires 4-1-17)

Ms. Motley previously worked in various capacities with the state of Michigan, most recently as a special agent with the Michigan Department of Attorney General where she investigated allegations of health care and consumer fraud, and patient abuse and neglect. She also served as a public health investigator with the Michigan Department of

Public Health and a corrections officer with the Michigan Department of Corrections. Ms. Motley earned a bachelor's degree in criminal justice from Michigan State University.

“[The MIDC] was established in 2013 to improve the quality of legal representation for low-income individuals...The commission has the potential to solve Michigan's patchwork indigent defense system and deserves support.”

--Detroit News, July 21, 2015

Michael Puerner, Ada

Represents members submitted by the Senate Majority Leader (Term Expires 4-1-17)

Mr. Puerner is the vice president, secretary, and general counsel of Hastings Mutual Insurance. He previously was a shareholder with Foster Swift Collins & Smith. He is on the executive committee of the Federal Bar Association's, West Michigan Chapter, and is a founding

trustee and current vice president of the Adjunct to U.S. District Court – Western District Michigan. Mr. Puerner earned a bachelor's degree in American studies from Northwestern University and a law degree from the University of Minnesota.

Hon. Thomas Boyd, Okemos

Represents members submitted by the Michigan District Judges Association (Term Expires 4-1-18)

Thomas Boyd served as the chief judge of the 55th District Court (2008-2015). He previously served as an assistant attorney general. Judge Boyd graduated from James Madison College at Michigan State University, BA (1985) and Wayne State University, JD (1990).

Nancy J. Diehl, Detroit

Represents members submitted by the State Bar of Michigan (Term Expires 4-1-18)

Ms. Diehl retired from the Wayne County Prosecutor's Office in 2009, where she served as trial division chief. She founded and directed the Child Abuse Unit and the Child and

Family Abuse Bureau. Diehl received Western Michigan University's Distinguished Alumni Award in 2009, Wayne County Council Against Family Violence Spirit Award in 2009, and the Women Lawyers Association of Michigan Jean King Leadership Award in 2006. Ms. Diehl earned a bachelor's degree in political science and general business from Western Michigan University and a law degree from Wayne State University.

Gary Walker, Marquette

Represents members submitted by the Prosecuting Attorneys Association of Michigan (Term Expires 4-1-18)

Mr. Walker is the supervisor of Chocolay Township and previously served as the Prosecuting Attorney for Marquette County for more than 35 years. He serves on the Deans' Advisory Council, College of Behavioral Science at Northern Michigan University. Mr. Walker earned a bachelor's degree in social science from Michigan State University and a law degree from the University of Michigan.

Kevin Oeffner, Howell

Represents members submitted by the Chief Justice of the Michigan Supreme Court (Term Expires 4-1-19)

Mr. Oeffner is the court administrator for the 6th Judicial Circuit Court, where he previously served as deputy court administrator. He also served as the chief of program evaluation for the Oakland County Board of Commissioners and as program evaluation analyst for the Ingham County Controller's Office. Mr. Oeffner earned a bachelor's degree in political science, a master's in public administration and a master's in business administration with a concentration in finance, all from Michigan State University.

Jon Campbell, Otsego

Represents local units of government (Term Expires 4-1-19)

Mr. Campbell has been an Allegan County commissioner since 1991. He previously served 27 years as a police officer with the City of Otsego and has more than 30 years of law enforcement experience. Campbell is a member of the Allegan County Central Dispatch Policy Board, the Michigan Sheriff Coordinating and Training Council Advisory Committee, and the State of Michigan 911 Committee. He earned an associate degree in criminal justice from Kalamazoo Community College, a bachelor's degree in public service administration from Siena Heights University and a master's degree in organizational management from Spring Arbor University.

H. David Schuringa, Grandville

Represents the general public (Term Expires 4-1-19)

Dr. David Schuringa is the former president of Crossroad Bible Institute. He served in numerous roles as an ordained minister, most recently as senior pastor of Bethany Christian Reformed Church. He led an educational agency with 45,000 participating inmates and served on the Michigan Campaign for Justice. Dr. Schuringa earned a bachelor's degree in theology and Greek from Trinity Christian College, a master of divinity in ministerial studies from Westminster Theological Seminary, a master of theology in homiletics-communications and practical theology from Calvin Theological Seminary, and a Ph.D. in homiletics-communications and practical theology from Theologische Universiteit te Kampen (Netherlands).

Joseph J. Baumann, Dewitt

Supreme Court Chief Justice Designee, ex officio member

Joseph Baumann took office as Michigan Supreme Court General Counsel on July 8, 2013. Before then he was counsel to the state House of Representatives Majority Caucus from 2011-2013; served as assistant director of the Office of Legal Affairs at the Department of Community Health; and was an associate at the law firm of Dykema Gossett from 2006-2010. He graduated from Michigan State University, James Madison College, BA (2000); and from Thomas M. Cooley Law School, JD (2006). He serves on the Board of Directors for the Riverwalk Theater.

Meetings and Activity

The Commission began its work in earnest, meeting regularly after appointment by the Governor starting in September 2014. Among the earliest work of the Commission was the hiring of an Executive Director, pursuant to MCL 780.989(c). The position was posted locally and nationwide, with interviews conducted in a public forum and during the Commission meeting in December of 2014. Jonathan Sacks was selected as the agency's founding Executive Director. Mr. Sacks began his work February 2, 2015.



The earliest work of the Commission also resulted in the preparation of bylaws for conducting Commission business. These bylaws are posted on the Commission's [website](#).

The Commission's work is governed exclusively by the MIDC Act and guided by its mission statement established in early 2015:

The Michigan Indigent Defense Commission shall develop and oversee the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that indigent criminal defense services providing effective assistance of counsel are delivered to all indigent adults in this state consistent with the safeguards of the United States constitution, the state constitution of 1963, and with the Michigan Indigent Defense Commission Act. We will identify and encourage best practices for delivering the effective assistance of counsel to indigent defendants charged with crimes. We will collect data, support compliance and administer grants to achieve these goals. We will accomplish our mission through collaboration, transparency and accessibility to all partners in the criminal justice community.

The Michigan Indigent Defense Commission assembled six times for business in meetings that were open to, and attended by, the public. The minutes from these meetings are available on the Commission's [website](#) with key activities identified below. Members of the standing committees also met informally on other dates to prepare materials for review by the Commission as a whole and to make meeting times as efficient as possible.

February 17, 2015

Meeting conducted at the State Bar of Michigan

- First Executive Director summary detailing staff hiring and timeline
- Approval of bylaws governing Commission business
- Establishment of standing committees for Commission work, including the *Executive Committee*, the *Performance Standards Committee*, the *Indigence & Compensation Standards Committee*, the *Training and Evaluations Standards Committee*, and the *Selection Standards Committee*



April 14, 2015

Meeting conducted at the State Bar of Michigan

- Presentation by David Carroll from the 6th Amendment Center
- Appointments to standing committees with staff members assigned to each for work on proposed standards
- Draft first set of standards distributed to committees

June 9, 2015

Meeting conducted at the MIDC temporary office space in Lansing

- Reports from committees on draft standards
- Website launch and activity
- First survey of courts to be distributed

August 18, 2015

Meeting and first public hearing conducted at WMU Cooley Law School (live in Lansing; simulcast in Grand Rapids and Auburn Hills)

- Requested and planned budget increases discussed
- Public hearing on first set of proposed minimum standards for indigent defense

October 20, 2015

First meeting conducted at the MIDC permanent office space in Lansing

- Appropriations and staffing level updates
- Updates and changes incorporated into first standards after public hearing
- Preliminary survey results reported
- Creation of work/advisory groups: *Data and Best Practices* and *Recommendations and Complaints*.

December 15, 2015

Meeting conducted at the MIDC Office in Lansing

- Introduction of new Research Associate (staff) and Regional Consultants (contractors) beginning work in 2016
- Presentation by Robert Boruchowitz, Seattle University School of Law, Partner to the Sixth Amendment Center
- Approval of first set of proposed standards to be submitted to Michigan Supreme Court

Staff and Organizational Structure**Executive Director**

Jonathan Sacks came to the Commission from the Michigan State Appellate Defender Office, where he served as Deputy Director. His past achievements include the establishment of units to support indigent clients through evidence reviews involving the now closed Detroit Crime Lab, investigation of possible wrongful convictions, and social worker mitigation and reentry support. Prior to his work in Michigan, Mr. Sacks was a felony trial supervisor and major trials unit attorney at the Defender Association of Philadelphia. As a career public defender, Mr. Sacks has both the experience and dedication required to improve Michigan's system. Mr. Sacks began his employment February 2, 2015.

**Full Time Staff**

The Executive Director's responsibilities include hiring MIDC staff. MCL §780.989(d)(i).

Marcela Westrate - State Office Administrator and Legislative Director

Ms. Westrate began working with the MIDC along with Mr. Sacks in February of 2015. She previously served as Executive Director of the Michigan Campaign for Justice, leading the successful effort to reform Michigan's public defense system resulting in the MIDC's creation. Ms. Westrate managed the Campaign's coalition of more than 70 organizations and worked with members of the media to bring attention to the problems plaguing the state's indigent defense system.

Marla McCowan - Director of Training, Outreach and Support

Ms. McCowan served as a public defender at the appellate level for over sixteen years at the Michigan State Appellate Defender Office, nearly four of which included overseeing grant funded training for indigent defense practitioners around Michigan in her capacity

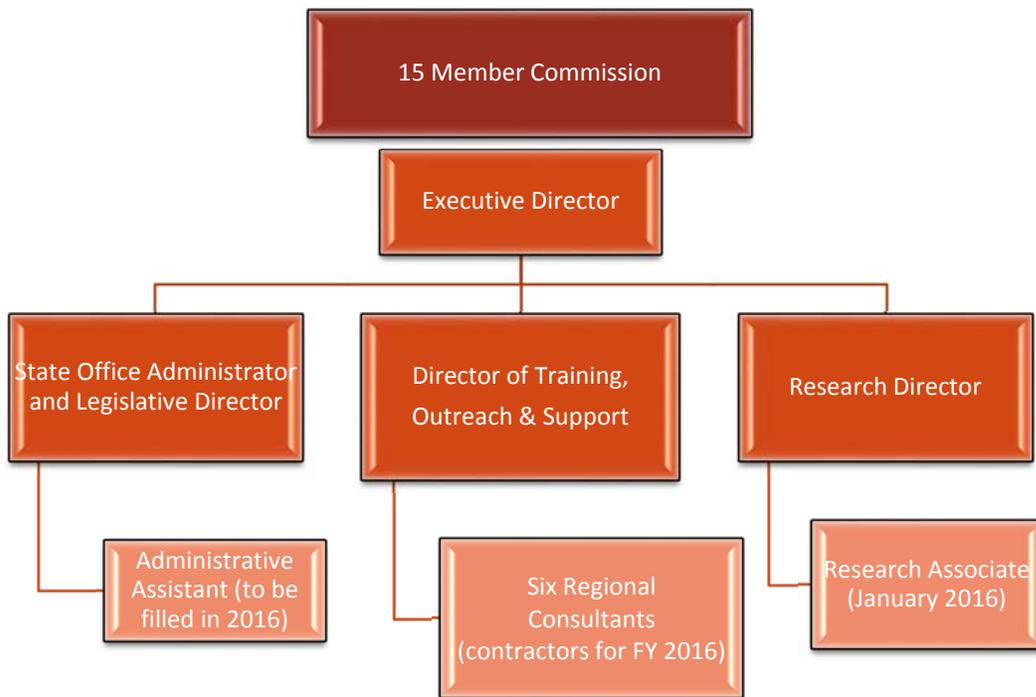
as the Manager of SADO’s Criminal Defense Resource Center and Training Director at SADO. Ms. McCowan started working for the MIDC at the beginning of April, 2015.

Jonah Siegel – Research Director

Dr. Siegel has conducted research on the criminal justice system for more than ten years for a range of government and nonprofit agencies. At the MIDC, Dr. Siegel is responsible for identifying institutional research priorities, overseeing data collection and analysis, and translating research findings into best practices. He began working at the MIDC in September of 2015.

Plan for Growth

At the December 2015 Commission meeting, six regional consultants were introduced who will begin working as independent contractors in early January through the end of the fiscal year (September 30, 2016). These consultants will serve as the liaisons between local systems and the MIDC and will work with criminal justice stakeholders to design the most appropriate plans for meeting minimum standards for indigent defense in a particular county or system. The MIDC continues to work on an annual appropriations request to bring the staff up to permanent levels. If the MIDC receives this funding, it is anticipated that the staff will grow from four people in 2015 to up to 16 permanent members by the fall of 2016. With staffing at that level, the MIDC will be in the best possible position to implement minimum standards for indigent defense.



Organizational chart created pursuant to MCL §780.989(1)(d)(i).



General Operations

Office Location

The Executive Director and core staff initially worked in temporary office space on the fourth floor of the Capitol National Bank, in downtown Lansing at the corner of Washington and Ottawa Streets. As of September 2015, the MIDC is in permanent space on the third floor of the building. The MIDC is steps from the Capitol and walking distance to many other offices in the area. In terms of the design of the space, the MIDC suite has several modest offices along with one central multi-purpose room used for meetings or trainings with portable furniture accommodating several configurations. The office is open Monday through Friday. A new, main telephone number for the office has recently been installed to reach the staff at 517-657-3066. Requests for information can be sent anytime to info@michiganidc.gov.

Policies and Procedures

The Michigan Indigent Defense Commission is required to publish its policies and make them available to all attorneys and professionals providing indigent criminal defense services, the Supreme Court, the Governor, the Senate Majority Leader, the Speaker of the House of Representatives, the senate and house appropriations committees, and the senate and house fiscal agencies. See MCL §780.989(h)(6). The current policies of the MIDC are described in the bylaws adopted by the Commission itself. The by-laws were adopted by the Commission in February of 2015 and signed by the Chairperson and are available on the Commission's [website](#).

In our efforts to accomplish our mission through collaboration, transparency and accessibility to all partners in the criminal justice community, the MIDC's Freedom of Information Act policy has been placed on our [website](#). Pursuant to the MIDC Act, both the Freedom of Information Act and the open meetings act apply to our agency. The MIDC's FOIA policy details how to submit a request and the process for how a request will be responded to, along with other relevant information. Please see the MIDC website for the complete policy, and contact the FOIA coordinator at foia@michiganidc.gov with any related questions or concerns.

Budget

The Michigan Indigent Defense Commission is required by statute to publish its budget and a listing of all expenditures. Expenses are listed quarterly on the MIDC [website](#). Annual budget, salary and related information is detailed below pursuant to MCL §780.999.

REVENUES & EXPENDITURES	<u>FISCAL 2014-2015 APPROPRIATION</u>	<u>FISCAL 2015-2016 APPROPRIATION</u>	<u>CALENDAR YEAR EXPENDITURES</u>
Salaries and Wages (5 FTEs as of 1/4/16)	250,000	455,000	274,585
Longevity	1,000	1,000	670
Insurances	50,000	96,000	44,562
Retirement and FICA	150,000	265,000	165,762
Contracted Services, Supplies & Materials	90,000	82,500	55,817
Travel	20,000	30,000	16,094
Equipment	30,000	7,200	12,822
Rent	11,000	60,000	10,585
General Fund/General Purpose	602,000	996,700	580,897

Since the MIDC office opened in February of 2015 (several months after the October 1, 2014 beginning of the 2014-2015 fiscal year) our first annual report includes payments made during the 2015 *calendar* year. Displaying information in this format better reflects spending and the growth of operations for the agency's first year. Future reports will include expenditures based upon the fiscal year which begins October 1 and ends September 30 annually.

The MIDC has a unique statutory provision (MCL 780.985(2)) that allows the agency to carry forward any unspent appropriations for a maximum of four fiscal years. Each balance is placed within a specifically-defined work project and can only be used to fund activities that fall within that project's definition. The MIDC must submit an annual request to retain its work project funding and this request is subject to legislative approval.

Expense details:

Contracted Services, Supplies, and Materials is the general category that the State of Michigan uses to show a combined total for any contracts for professional services, supplies such as office supplies and furniture and materials.

Included in the amount is \$24,774 in contracts. Major contracts include:

- \$5,655 for website development, design and monthly website and e-mail maintenance.
- \$5,732 for a seven-month contract with an individual to design the MIDC's first survey and draft the agency's research plan.
- \$4,608 for IT contract.

- \$4,125 for the end of a seven-month contract for office administration that began in 2014.
- \$4,390 to wire the MIDC's permanent office space for internet and telephones.

The remaining balance in the Contracted Services, Supplies, and Materials is \$31,043 and covers a variety of other office needs. Major payments made from this area include:

- The MIDC's lease for office space included the majority of our furniture. The MIDC purchased additional furniture, a conference room furnishings, printer stands, one standing desk, floor mats, cork boards and white boards with an approximate cost of \$10,165.
- \$5,897 for software.
- \$3,540 for telephones and internet.
- \$1,550 for letterhead, envelopes and staff business cards.
- \$1,337 for job postings.
- \$1,080 in software licensing fees.
- The remaining \$7,474 is comprised of office supplies, materials, periodical subscriptions, electronic research subscriptions, postage, and equipment delivery fees.

Travel

- The travel expenditures include \$5,965 in reimbursements for mileage and parking made to MIDC members. The remaining \$10,129 in travel is reimbursement for MIDC staff travel throughout the state

Equipment

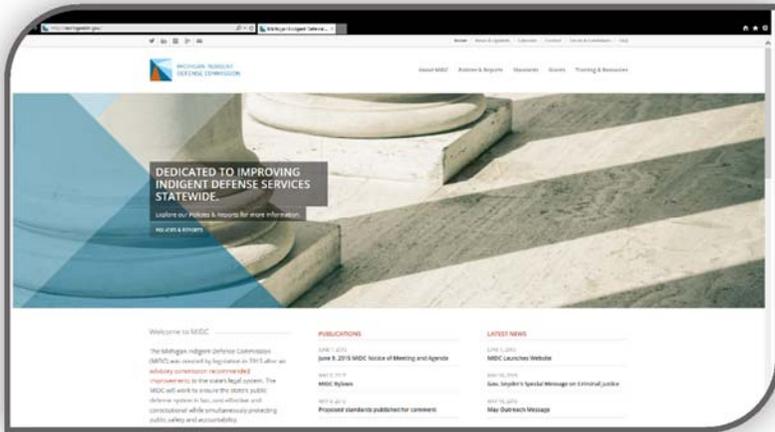
The MIDC spent \$12,822 on equipment. This includes all electronic equipment for the new office. Major equipment expenses include the following:

- \$4,704 for four laptop computers
- \$3,505 for various items needed for office internet.
- \$2,467 for four laptop docking stations.
- \$1,653 for computer monitors.

In June 2015, Governor Snyder signed an omnibus budget bill that included funding for the 2015-2016 fiscal year that begins October 1, 2015. The MIDC was appropriated \$996,700. After working with legislators in the House and Senate, MIDC was able to have language added to the budget that will allow the agency to receive federal grant funding and funding through the Edward Byrne Memorial Justice Assistance Grant (JAG) program. MIDC continuously evaluates grant opportunities and plans to apply for funding in the future.

Website

At the beginning of June 2015, the MIDC launched its website pursuant to MCL §780.989(6) and §780.999 which serves as the main resource to learn about our policies, standards and resources as we carry out the mission of improving indigent defense delivery systems statewide. The website is found at www.michiganidc.gov. Our website is an important component to informing the criminal justice community and poor people charged with crimes about the steps we are taking to improve representation and to help ensure Michigan meets its constitutional obligations.



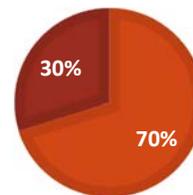
In addition to the statutory requirements to compile online versions of the Commission’s policies and reports, the MIDC posts on its website news and noteworthy issues, information about meetings and upcoming events, and links to helpful resources. In 2015 the site was used to post the first set of proposed minimum standards for indigent defense. We

posted all comments received on the standards, information about the public hearing, and a process for providing feedback to the Commission prior to the standards being submitted to the Supreme Court.

Analytical reports indicate that for the period of **June 1, 2015 through December 31, 2015** we had a number of new and returning visitors to our website. People came to our site either through direct links or increasingly through organic searches, demonstrating that people know about our work and are searching for us on the web. The top pages on our website were Standards, About the Commission, Request for Proposals, Meet the Staff and Policies and Reports, with each page seeing several hundred visits. In 2015 the MIDC website helped establish the Commission and become a source of valuable information for the public.

WEBSITE VISITS (8,817 TOTAL)

■ New Visitor (6,189) ■ Returning Visitor (2,628)



Outreach and Social Media

The MIDC strives for accessibility and transparency in all of our work, and among our highest priorities is reaching out to the Michigan criminal defense community to keep people informed of our progress. Prior to the launch of our website, we introduced ourselves through short outreach messages, which were extremely popular and continued through the end of 2015. In each message we gave an update of the most recent activity of the Commission, summarized our progress, and gave a preview of our focus in the weeks and months to come. We shared pictures from our meetings and events, knowing visibility and accountability go hand in hand.



The outreach messages were distributed to listservs of criminal defense attorneys, bar associations, public defender offices, and posted on our website, reaching several hundred people each month. We used Adobe's free program *Slate* to make viewing the messages and images associated with

them as easy as possible, particularly for users on a smartphone or tablet. The messages from [April](#), [May](#), [June](#), [July](#), [August](#) (cover picture at above left), [Fall 2015](#) and [December/End of 2015](#) remain online and accessible.

The MIDC also posts about our events and meetings as well as other news on [Twitter](#) and [Instagram](#) @michiganidc. In 2016 we hope to see our social media presence grow and to engage a large audience about our work.



Collaboration

Stakeholder Meetings

The Executive Director and members of the MIDC Staff spent time every week in 2015 meeting with criminal defense attorneys, court administrators, judges and other stakeholders, widely seeking input for improving indigent defense services. Presentations about the work of the Commission were conducted around the state to a wide variety of associations and even to informal groups. The MIDC Executive Director's presentations provided background about the formation of the Commission, the standards currently proposed and those we plan to address in the near future, our survey, and answered frequently asked questions about how our work will improve indigent defense in Michigan. The Executive Director's 2015 presentations included the following groups:

- Judges and Court staff in Antrim, Berrien, Kalamazoo, Kent, Lenawee, Macomb, Mt. Pleasant, Oakland, Oscoda, Ottawa, Saginaw, St. Clair, Van Buren, and Wayne County;
- Michigan Judges Association, Michigan District Judges Association, the umbrella organizations of Circuit and District Court administrators, multiple regional meetings of judges and court administrators, and at the Michigan Supreme Court's Judicial Conference in Grand Rapids;
- Public Defenders in Chippewa, Bay, Muskegon, Detroit, Kent and Washtenaw, including participating with the interview team for the new public defender in Lenawee County;
- Bar Association meetings in Genesee, Ingham and Saginaw;
- Local and regional training for criminal defense attorneys including presentations at the Criminal Advocacy Program in Wayne County, the Criminal Defense Attorneys of Michigan (CDAM) conferences (Gaylord and Traverse City), and presenting as a panelist at the Criminal Law Section program at the State Bar of Michigan annual meeting along with Commissioner Nancy J. Diehl, Hon. Sarah J. Smolenski and Muskegon Public Defender Fred Johnson.

The Director of Training, Outreach & Support, Marla McCowan evaluated criminal defense attorney training programs offered in several counties through local, statewide and regional conferences. Ms. McCowan also presented on the work of the Commission and sought feedback from practitioners about the first standards in Chippewa, Isabella, Kent, Lapeer, Marquette, Muskegon, Roscommon, Saginaw, and Wayne Counties. Outreach to community groups included the Gray Panthers of Metro Detroit, with others planned in 2016.

Presence in the Indigent Defense Community

The MIDC's commitment to improving indigent defense goes beyond implementation of the requirements of the legislation alone. The Commissioners dedicate numerous volunteer hours to MIDC business including educating stakeholders about the need for reform and efforts to improve indigent defense statewide. The MIDC Executive Director and Staff remain closely connected to many groups dedicated to criminal defense reform and regularly attend meetings and spend time learning from and educating others about best practices and methods for reform. Executive Director Sacks received scholarship funding to attend the National Association for Public Defense's Executive Leadership Institute at Valparaiso at the end of June, and the National Legal Aid and Defender Association's conference of Chief Defenders in Washington D.C. in July. Mr. Sacks also became a trainer for CDAM's trial college through a multiple-day training program offered over several months in 2015.

Ms. McCowan maintains a position on the Education Committee for the Criminal Defense Attorneys of Michigan, and was elected to the CDAM Board of Directors in the spring of 2015. Ms. McCowan also received a scholarship to attend the National Legal Aid and Defender Association's National Defender Leadership Institute in South Carolina at the beginning of June, with a topical focus on meeting the training needs of public defenders.

State Office Administrator and Legislative Director Marcela Westrate was appointed to the State Bar of Michigan "Affordability of Legal Services" Committee of the 21st Century Task Force, working on new tools for breaking through the access barrier. Ms. Westrate was also invited by *Gideon's Promise* to the Indigent Defense Leadership Summit at the University of Mississippi School of Law, an annual seminar that brings public defender leaders together for community resource sharing, training on the *Gideon's Promise* model of client centered representation, and strategies to improve the defense of poor people accused of crimes.

Ms. Westrate and Ms. McCowan also attended Macomb County's criminal justice reform committee meeting where several members of the criminal justice community were present and discussed real plans for improvement.

Research Director Jonah Siegel has been actively networking with indigent defense researchers from around the country. He convened with defenders and researchers at the NSF-funded Quality Legal Representation conference in Albany, NY in October 2015 and presented research on indigent representation at the American Society of Criminology's annual meeting in Washington, DC in November 2015. He also participates in the newly formed Indigent Defense Research Association, a national group of defenders, researchers, teachers and policy advocates who want to use data and research to improve public defense.

Implementing Change

First Standards

In June of 2015, the MIDC released the first set of proposed minimum standards for the local delivery of indigent criminal defense services. These standards involve education and training, the initial client interview, experts and investigators, and counsel at first appearance in front of a judge or magistrate. We selected these initial standards because they are either required by the statute or supported by United States Supreme Court precedent. MCL 780.989(1). We also wanted to start with a set of standards that would be amenable to the creation of lasting and measurable improvements in the criminal defense of people who cannot afford counsel. Among other topics, future standards will tackle caseloads, qualifications, compensation, and independence of the indigent defense function from the judiciary.

These first standards were distributed widely for comment to multiple criminal defense attorneys and associations, as well as to judges, prosecutors, legislators and other system stakeholders. As set forth above, the MIDC staff spoke with many groups about the first set of proposed standards either as part of our work, in connection with a training event, or in a meeting designed specifically to answer questions about the future of indigent defense in counties across Michigan. All comments about the standards are posted on the [MIDC's website](#), and were distributed for consideration by the full Commission before any action was taken.



Muskegon PD Fred Johnson speaks at the public hearing in support of the first standards.

“Poor Michiganders charged with a crime could soon be protected by new standards for court appointed attorneys.”

- Lansing State Journal, June 10, 2015

The MIDC held a public hearing on the first standards on August 18, 2015 at the Lansing campus of Western Michigan University Cooley Law School (simulcast in Grand Rapids and Auburn Hills). The MIDC wanted to hear from as many people as possible; this venue ensured that the process was open to all stakeholders in the criminal justice community.

The MIDC received important comments from many people, and the standards were updated to incorporate this feedback. The revised version made clear that improvement does not rest with counsel

alone; rather, the standards should be implemented as system-wide requirements and reforms. The standards are designed to improve the entire system, and will fortify defense attorneys around the state as they work towards better representation for their indigent clients.

The Commission met on December 15th and formally voted to submit the first set of proposed standards to the Michigan Supreme Court during the first week of January 2016. The final version to be submitted to the Michigan Supreme Court can be found on the [MIDC's website](#).

At the December 2015 Commission meeting, it was announced that six regional consultants will begin working in early January 2016 through the end of the fiscal year. These consultants will serve as the liaisons between local systems and the MIDC and will work with criminal justice stakeholders to design the most appropriate plans for meeting minimum standards for indigent defense in a particular county or system. The work of the Regional Consultants will be summarized in the next reporting period.

Survey

In July of 2015 the MIDC started its statutorily-mandated data collection efforts with the distribution of the first-ever comprehensive survey to measure the delivery of criminal justice for indigent defendants in Michigan. This initial survey sought to gather details on current practices in the state's court systems to help MIDC better understand and map the legal landscape for indigent defendants in Michigan. More specifically, the survey gave courts the opportunity to provide information about types of indigent defense systems, eligibility for counsel, process for appointment of counsel, and public defense expenditures. The questions only involved trial level indigent criminal defense for adults. The information gathered in this first survey will inform the development of statewide standards for public defense.

“The MIDC has started its work to collect data and establish minimum standards to regulate and make the state’s indigent criminal defense systems more efficient. As these standards are enacted, additional funding from the state will be needed in the form of grants administered by the MIDC so that courts may meet the standards and reform our indigent defense system to protect our communities, our tax dollars and the constitutional rights of all Michiganders.”

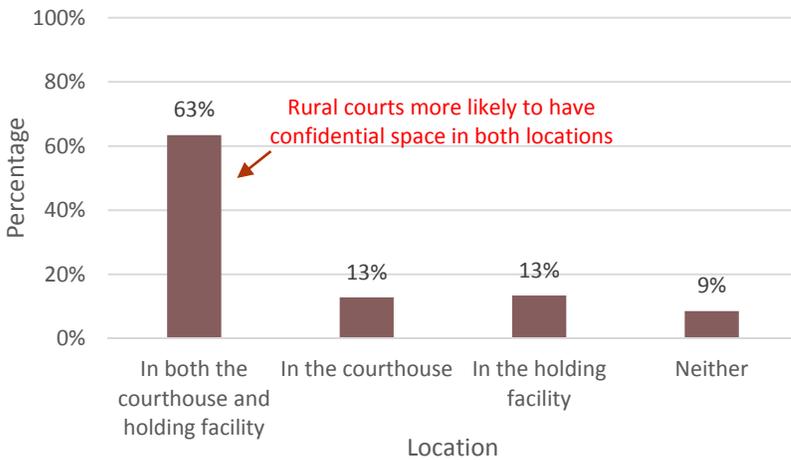
—Governor Rick Snyder
2015 Criminal Justice Special
Message

The survey was completed online by a court administrator, judge, chief public defender or the person charged with maintaining the data related to the assignment of counsel in their court. The complete survey remains on our [website](#). Over 160 District and Circuit Courts completed the survey with only one Circuit Court in the entire state, Grand Traverse Circuit, failing to comply.

The MIDC will publish a report from the survey in early 2016 and make the findings available online. Important results include the fact that although national guidelines mandate that indigent defense systems evaluate the financial eligibility of defendants for indigent defense representation, guidelines dictating the methods by which this must occur do not exist. As a result, Michigan courts vary tremendously in their practices. Compensation for indigent defense representation also varies widely across courts and

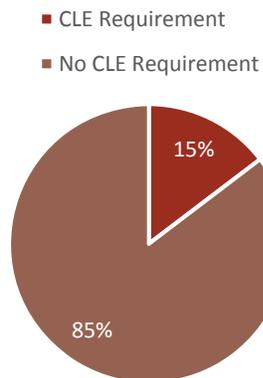
counties.

The survey also revealed that despite the critical role of confidential meeting space in legal representation, almost one-tenth of indigent defense systems in Michigan report that neither their courthouse(s) nor their holding facilities have private space for attorney-client meetings. Compliance with the first set of proposed minimum standards for indigent



defense delivery systems should include plans to improve the existence of confidential meeting space statewide.

The data collected will continue to be used to inform standards proposed and implemented by the MIDC. Analysis confirms that an immediate need exists for training and education of assigned counsel in Michigan. At present, just 15% of indigent defense systems report the existence of local guidelines requiring participation in CLE courses. Under the Sixth Amendment, defendants are guaranteed the right not only to counsel but to counsel that is effective. The American Bar Association has identified continuing legal education as a central component of ensuring effective public defense representation. Some local court systems have taken it upon themselves to mandate indigent defense attorneys to complete such credits, but there is no statewide requirement. MIDC’s first set of proposed standards mandates appointed counsel



to complete twelve annual continuing education requirements. The minimum of twelve hours of training represents typical national and some local county requirements, and is accessible in existing programs offered statewide.

In 2016, the MIDC will conduct a survey of criminal defense attorneys relating to the first set of minimum standards, as a complement to the survey that was completed by court systems in 2015. The MIDC has also prepared a court observation protocol as a further complement to these research efforts.

A new Research Associate will begin working with the MIDC Research Director in early 2016. After the first set of proposed minimum standards are adopted, support for data analysis will be critical.

Recommendations

In the spring of 2015, the MIDC received express support from Governor Snyder in his special message on Criminal Justice, in which he talked about the work started by collecting data and proposing minimum standards. Recognizing that additional state dollars will be required to ensure the success of the Commission, Governor Snyder said that he looks forward to working with the Legislature on funding and he is “excited to watch Michigan become the model for other states to follow.”

When the Supreme Court approves the first set of standards for indigent defense in 2016, the MIDC will work with courts and government units to select compliance plans to ensure improvement and success. We expect the compliance plans to be due in late 2016 based on deadlines set in the MIDC Act. The State of Michigan is required to fund the plans and we look forward to watching this important process succeed.

Pursuant to MCL §780.989(h), the MIDC makes the following recommendations for improvements and further legislative action:

- The legislature and State of Michigan shall fully fund any MIDC approved compliance plan for the first set of proposed minimum standards for indigent defense delivery systems, pursuant to the requirements of MCL §780.989(2) and §780.993(6) and (9).

“I look forward to working with the Legislature to ensure the ongoing success of the Commission’s efforts and I am excited to watch Michigan become the model for other states to follow.”

--Governor Rick Snyder
2015 Criminal Justice Special Message

Conclusion

In 2015, the MIDC started operations with a core staff, proposed an initial set of minimum standards for indigent defense, and conducted the first comprehensive survey of trial court indigent defense.

In 2016, the MIDC plans to build on this foundation. The MIDC will work with local systems to develop initial compliance plans with the minimum standards. Together with future minimum standards development, these compliance plans will start the process of permanently improving the public defense for poor people facing a loss of liberty and accused of a crime.



The MIDC wants all members of the criminal justice community to look to us for both leadership and support as we navigate toward making Michigan a model for indigent defense delivery systems nationwide. For that reason, we chose a lighthouse as our logo, and we will continue to move forward and provide guidance for improving indigent defense in Michigan.

