

**Questions and Answers Submitted for the MIDC's Request for Proposals:
*Michigan Public Defense Caseload Standards Study****

1. How are “adult criminal cases” defined for the purpose of this study?

The study should cover all cases that fall under the jurisdiction of the Michigan Indigent Defense Commission (MIDC), which are outlined in the MIDC Act in section 780.983. The Act defines “adults” generally as defendants 17 years of age or older and also includes exceptions for some defendants younger than 17 charged as adults. “Criminal cases” refer to cases at the trial level in which the defendant is being prosecuted or sentenced for a crime for which an individual may be imprisoned upon conviction and should not include cases on appeal. For additional detail, please see the Act [here](#).

2. What categories (e.g., “violent felonies,” “drug crime misdemeanors,” etc.) of adult criminal cases are assumed to be of interest in setting caseload standards? Are such categories ones used to classify incoming criminal cases in each of the county\court systems administering indigent defense programs?

Our preferred Michigan categories are as follows, though we would be interested in suggestions from our research partners once the study begins:

- Homicide
- Juvenile charged with first degree murder (current law requires a separate sentencing hearing to determine if the juvenile should receive life without parole or a term of years)
- Sexual Assault and Child Abuse
- Juvenile Charged as Adult
- Other High Severity Felony (Michigan crime class A, B, C, D)
- Other Low Severity Felony (Michigan crime class E, F, G, H)
- Misdemeanor punishable by more than 90 days to one year
- Misdemeanor punishable by 90 days or less
- Probation violations

Many, but not all, of these categories are used to classify offenses in court system administration, but it differs from county to county and court to court. The “High

* Questions replicated as submitted unless multiple questions addressed the same topic, in which case some questions have been combined or reworded.

Severity”” and “Low Severity” felony definitions are adopted by Michigan sentencing guidelines.

3. Have any time studies or other empirical assessments been conducted of the case-related time spent by defenders in any Michigan indigent defense program?

To our knowledge, no time studies or other empirical assessments of case-related time spent by trial-level defenders have been conducted in Michigan. The Michigan State Appellate Defender Office has examined cases on appeal.

4. Are defenders in any Michigan indigent defense program required to track their time expenditures and report same to an agency, organization, law firm, or a court system? If so, would such information be made available to successful bidders?

To our knowledge, none of the trial-level public defender offices in Michigan require attorneys to track their time expenditures. Some of the assigned counsel systems across the state do require attorneys to track their time for the purposes of submitting invoices for hourly payments, but this information is not collected at the state level and differs across courts. We estimate that just over half of circuit court assigned counsel systems pay their roster attorneys hourly. At least some of these courts will have accessible data on time expenditures, though we guess that most of these data will be relatively vague and will vary across courts and individual attorneys.

5. Do you anticipate including non-attorney support staff (e.g., investigators, paralegals, social workers, administrative staff) in the time study and the weighted caseload model?

Yes. We believe that non-attorney support staff are critical in assuring quality representation and are thus a key component of a workload study.

6. Will the successful bidder be given access to the data underlying the survey results reported in the “Snapshot of Indigent Defense Representation in Michigan’s Adult Criminal Courts: The MIDC’s First Survey of Local Court Systems” report published in January 2016?

The MIDC would be happy to make these data and other relevant data available should our research partner express interest.

7. Please list the public defender offices in the state and their breakdown of cases with assigned counsel systems.

At present, Michigan has eight public defender offices. The following list summarizes the county in which each office is located, the approximate percentage of cases handled by the office, and other relevant information.

- Bay County: two independent public defender offices handle almost 100% of cases including conflicts
- Berrien County: opened in 2017; takes approximately 80% of felony cases and a small number of misdemeanors
- Chippewa County: takes all cases except conflicts
- Kent County: takes approximately 60% of felony cases except conflicts and misdemeanor cases from certain district courts
- Lenawee County: takes all cases except conflicts
- Muskegon County: takes all cases except conflicts
- Washtenaw County: takes all felony cases except conflicts and misdemeanor cases from certain district courts
- Wayne County: takes approximately 25% of felony cases, with the remaining 75% handled by an assigned counsel roster

For more information on Michigan's delivery systems, please see the following [report](#).

8. What information is available regarding the number and types of adult criminal cases assigned to defenders in each indigent defense program in each county\court system in recent years? If no such information is currently available, is it assumed that each local county\court system administering local indigent defense programs will provide such information upon request to the successful bidder or by MIDC?

The MIDC does not currently have any such information on local indigent defense systems. The Commission informally surveyed public defender offices to determine whether they tracked this information and learned that while all of the offices are tracking some form of case data, many of the offices only track very broad categories, such as "felony and misdemeanor cases" or "capital, felony, misdemeanor, and city ordinance cases." None of the defender offices report that they collect data that break down the number and types of adult criminal cases into the types of case categories described in Question 2.

However, the MIDC believes that at least some courts are in possession of accessible individual-level information on case charges that could be obtained by a research

partner with the assistance of the MIDC and then cleaned and manipulated into a useful format. Although the MIDC would not be able to track these data down for all courts in the state, we are hopeful that we could obtain the data from a selected number of court systems.

9. Can the MIDC determine the FTEs of cases handled by the public defender offices?

The MIDC asked the public defender offices whether they could determine this answer, and we believe that all of the eight offices can identify their annual FTEs.

10. What information is available regarding the time from assignment to disposition for each adult criminal case assigned to defenders in each indigent defense program in each county\court system in recent years? If such information is not available on the individual case level, is it available in the aggregate for all cases within a specific category of adult criminal case? If no such information is currently available at either the individual case or aggregate cases level, is it assumed that each local county\court system administering local indigent defense programs will provide such information upon request from the successful bidder or by MIDC?

The MIDC has not collected any individual-level or aggregate-level information on the time from assignment to disposition for adult criminal cases handled by indigent defenders in Michigan other than self-reported estimates from courts. There are several indirect ways that a researcher might be able to get this information:

- The Michigan State Court Administrative Office does collect information on the time to case disposition (click on a county [here](#) and then select “timeliness”) but (1) the data are in the aggregate by court; (2) the data are organized in broad categories (within 91 days, within 154 days, within 301 days); and (3) the data are not specific to indigent defense cases.
- Some of our public defender offices may be able to provide estimates or the appropriate data to calculate this information.
- An estimate of this information could be obtained by collecting data from courts. Many courts do not record the date of assignment but could offer an estimate for each case based on their case assignment protocol (for instance, some courts mandate assignment within 72 hours while other courts make case assignments on the same day each week).

11. What information is available regarding the number of attorneys associated in some way with each indigent defense program in each county\court system? If no such information is currently available, is it assumed that each local county\court system administering local indigent defense programs will provide such information upon request from the successful bidder or by MIDC?

The MIDC does not currently have this information collected for every indigent defense system; however, all systems will be required to submit this information to the MIDC by the fall of 2017. If the information is needed sooner, the MIDC would work cooperatively with the successful bidder to obtain this information from as many systems as possible.

12. Will the names and contact information (including at least a mailing address) of all attorneys associated with each indigent defense program in each county\court system be made available to the successful bidder? If not, please describe the anticipated source for such name and contact information.

Please refer to the answer to #12.

13. What information is available regarding the supervisory status of attorneys associated in some way with each indigent defense program in each county\court system?

The MIDC does not currently have any information on the supervisory status of attorneys. Aside from the few public defender offices, almost none of Michigan's systems formally provide supervising attorneys.

14. What information is available regarding the full time or part time status of attorneys associated in some way with each indigent defense program in each county\court system?

This information could easily be gathered from our eight public defender offices, who almost exclusively employ full-time attorneys (also refer to Question 9). Information for contract and assigned counsel systems is limited and would have to be collected by attorney.

15. Are similar case or client management systems utilized by each county\court system that administers local indigent defense program? If not, please describe how caseload or client information is tracked at the local level in regards to indigent defense appointments.

There is little consistency across the state with regards to case management programs. Our eight public defender offices use a variety of programs. From the court's perspective, approximately 80% of Michigan courts use a state-based system called Judicial Information Services. The remaining courts use about 10 other off-the-shelf and homegrown case management programs.

16. Has MIDC collected information on, or is aware of a source for, the following subjects related to each of the county\court systems in Michigan?

- a. Population?**
- b. Area?**
- c. Location of principal courthouses?**
- d. Location of principal incarceration facilities?**

The MIDC does not have this information on hand but it can be easily gathered from a combination of census data, State Court Administrative Office data, and Michigan Department of Corrections data.

17. Has MIDC collected information on, or is aware of a source for, the following subjects related to each of the indigent defense programs in Michigan regarding (a) compensation approaches, and (b) non-attorney staff resources contained in each public defender office, non-profit defender organization, private law firm, or solo practice from which attorneys are assigned for indigent defense? For the latter, are such resource numbers broken out, at a minimum, by investigators, administrative support staff (e.g., secretaries, IT support), and legal support staff (e.g., paralegals, law clerks, interns)?

The MIDC is currently in the midst of finalizing a compensation report that will offer descriptions of compensation approaches in court systems across the state. The underlying data for this report can be provided to our research partner.

The MIDC has not collected information on support staff and does not believe that this information has been collected in Michigan by any other party.

18. Is it assumed by MIDC that different caseload standards could be applied to a public defender office, a contract defender program, and an assigned counsel program all operating within the same county\court system, even if all three mechanisms utilized attorneys of similar experiences and qualifications, operated out of law firms or organization with similar levels of investigators, non-attorney staff, and other in-kind resources, and represented similar clients and similar cases? If so, what would be the rationale for allowing such a distinction?

The MIDC believes that a single caseload standard should be applied to appointed attorneys, regardless of the delivery system in which they practice. However, we are open to considering different caseload standards if there is a strong justification.

19. Is it assumed that local county\court systems operating within sites selected as part of the study sample will cooperate with the successful bidder or MIDC on reasonable requests for data or other information?

Yes, we are confident that this will be the case.

20. Will MIDC provide meeting space at no cost to the successful bidders in order to hold Delphi standards setting sessions should that approach be utilized? If so, are there anticipated limits in the number of session participants in such MIDC-provided meeting spaces? (such as “no more than 30 persons in the room”). If so, are there anticipated limits in the number of sessions in such MIDC-provided meeting spaces? (such as “no more than 3 sessions”)

The MIDC can provide meeting space at our office in Lansing, but our conference room is limited to approximately 30 people. There are no limits to the number of sessions that can be held in our space. For larger gatherings, and locations outside of Lansing, we will assist the research team in locating appropriately-sized meeting spaces for Delphi sessions, and there may be some locations that can provide space for free. At this point, these costs should be included in the proposal budget.

21. Will MIDC cover the reasonable travel costs for (in-state) session participants in any Delphi standards setting sessions?

These costs should also be included in the proposal budget. The MIDC is happy to work with bidders to revise their budgets to reflect local costs.

22. Is there a maximum proposal budget above which MIDC does not anticipate funding?

The MIDC has budgeted between \$150,000 and \$200,000 for the completion of this study.

23. Can you provide as much information as possible regarding the final deliverables that the MIDC seeks under this RFP?

Through the study, bidders will be expected to produce the following:

- Quarterly progress and budget reports;
- Upon completion of the study:
 - For purposes of comparison, assessment of historical caseloads and staffing in Michigan indigent defense systems;
 - Recommended numerical caseload/workload standards for each provider of mandated representation, whether public defender, assigned counsel program, or contract defender; these standards should be based on the different categories of criminal cases in Michigan discussed in Question 2;
 - Recommendations for the means by which those standards will be implemented, monitored, and enforced on an ongoing basis, consistent with the MIDC Public Act 93;
 - A final report that details the study process and all recommendations;
 - An accessible template by which courts, counties, defense providers, or other stakeholders can determine the number of additional attorneys, investigators, and other non-attorney staff, as well as the amount of other necessary in-kind resources, to comply with the caseload/workload standards;
 - Final presentation of findings to the MIDC (preferably in-person but can be done remotely); willingness to present to other audiences if appropriate and helpful.

24. Can you provide a time frame for deliverables produced?

The time frame will largely depend on how much background data each bidder proposes to collect, so the MIDC is open to variations. However, the MIDC expects Michigan to adopt a caseload standard in the spring of 2018 and we hope to augment this standard with results from the caseload study within approximately one year of its passage. In short, we hope to have results by the spring of 2019 at the latest, but sooner is preferable.