

# MIDC - Sample Compliance Plans

This packet contains seven sample plans for compliance with the first set of MIDC minimum standards. These samples are only a guide to assist indigent criminal defense systems design compliance plans; any plan submitted is subject to approval by the full Commission.

The samples include three plans that make changes to existing systems – an assigned counsel system, a contract system, and a public defender office. The samples also include four plans that mark a shift to a changed indigent defense system – a transition to a public defender office, a transition to a managed assigned counsel system, a transition to regional cooperation, and a system that brings on a dedicated indigent defense administrator.

The sample plans cover both large and small indigent defense systems and should be applicable to different regions and court volumes throughout Michigan. They do not represent required elements of compliance, and systems may pick and choose from different plans depending on local preferences. For example, a system may set up a new Regional Defender Office, but choose to send attorneys to existing training programs, rather than start an in-house training program.

The plans also do not reflect standard or required expenses, just a series of examples that may shift depending on local conditions. For example, the plans have a variety of hourly rates for assigned counsel because there is not yet a uniform MIDC economic incentives standard. Instead, payment should be reasonable, based on local norms. The set requirements for compliance plans are contained in the *MIDC Applications and Instructions for Compliance Planning* and the *Guide for Submission of Compliance Plans, Cost Analyses, and Local Share*.

The sample plans include information about additional costs to the system for complying with standards. Again, these costs are simply guides and remain subject to final approval by the MIDC.

The sample plans reflect MIDC discussions with different funding units and stakeholder groups. They are not an exclusive set of potential planning models. The MIDC expects to see creative and effective compliance planning that adds several elements to these sample plans.

# Sample Plan Assigned Counsel System

## Overview

**How does the system intend to comply with the MIDC Standards?**

We will continue to use our assigned counsel system.

**Briefly describe the indigent defense delivery system:**

This funding unit maintains a typical assigned counsel system. There are two attorneys serving as the primary counsel for the indigent adult criminal cases. The system also maintains a conflict list of approximately five other attorneys who are occasionally assigned cases. None of the attorneys are salaried employees of the funding unit. All attorneys are paid per hour for time spent on an assigned case.

**Please provide the names and P#s for all attorneys the funding unit intends to have deliver indigent defense services during the compliance planning year:**

*See attached.*

## Compliance Plan

Describe how the system will comply with each standard adopted by the MIDC.

### Standard 1 – Training and Education

**Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. Do any attorneys covered in this plan have fewer than two years of criminal defense experience?**

No.

**All attorneys shall annually complete at least twelve hours of continuing legal education. How many attorneys require training in this plan?**

Two. The other attorneys who practice occasionally in this system will be covered in a separate funding unit's compliance plan.

## **How will the funding unit ensure that the attorneys satisfy the twelve hours of continuing legal education during the compliance plan year?**

The funding unit will ensure that each attorney attends one regional conference offered by the Criminal Defense Attorneys of Michigan (CDAM). The attorneys will have access to the State Appellate Defender Office's Criminal Defense Resource Center online training manuals. The attorneys will also occasionally participate in relevant online courses (webinars) offered by the National Association for Public Defense (NAPD).

The funding unit will provide any relevant documentation for CLE attendance by attorneys to the MIDC for data collection purposes, pursuant to Michigan Supreme Court Administrative Order 2016-2. Documentation will be submitted to the MIDC no later than 30 days after completion of the course(s).

## **Standard 2 – Initial Interview**

When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.

### **How will attorneys be notified of an appointment?**

The attorneys will receive an email from the court administrator with the Order of Assignment (SCAO Form MC222) that includes complete contact information for the defendant.

### **How will the initial interview be accomplished?**

Currently, the attorneys are only paid for one client interview. Attorneys will make the (additional) initial visit in person when practicable, and will be paid on an hourly basis to be billed in quarter hour increments not to exceed one hour for each initial interview where the defendant is charged with a misdemeanor, or two hours for each initial interview where the defendant is charged with a felony. In many instances, initial interviews will be done via video with the assistance of the sheriff's department for defendants in the custody of the local jail.

### **Does the jail have confidential space for attorney-client interviews?**

Yes. Some supplies will be necessary to facilitate video-based initial interviews.

### **Does the courthouse have confidential space for attorney-client interviews?**

No. In order to comply with this standard, an evaluation of all available space in the courthouse has been considered and it has been determined that minor construction-based modifications to existing space along with soundproofing will be required to ensure confidential communications between attorneys and their clients.

### **Standard 3 – Experts and Investigators**

**The MIDC standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client’s defense. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution’s case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.**

#### **How will this standard be complied with by the local system?**

Experts or investigators are identified by each assigned attorney and funds will be requested by counsel to pay for the expert or investigative services. Based on the most recent year’s adult criminal case statistics, it is projected that investigative services will need to be retained at \$75/hour for up to 60 hours of work in the compliance plan year. Expert witnesses will need to be retained as needed by attorneys and at the attorney’s discretion, not to exceed the hourly rates published by the MIDC, for a maximum of \$5,500 in the compliance plan year. The use of experts and investigators will be tracked by case type and attorney.

### **Standard 4 – Counsel at First Appearance and Other Critical Stages**

**Counsel shall be appointed to provide assistance to the defendant as soon as the defendant’s liberty is subject to restriction by a magistrate or judge. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations and at other critical stages, whether in court or out of court.**

#### **How will this standard be met by the local system?**

Arraignments are conducted on one afternoon each week, or as needed on an emergency basis. The court will have counsel available in person in the courthouse to handle the afternoon arraignments for one (four-hour) session

each week, or as needed, on an hourly basis, for a total maximum of 6 hours per week.

## System Costs

Category	Calculation method	Total
Current system costs (to be maintained)	Assigned counsel fees	\$75,000.00
Attorney time	Initial interviews – 2 hours/week x 50 weeks/year = 100 hours x \$80/hour	\$8,000.00
Attorney time	Counsel at first appearance – 6 hours/week x 50 weeks/year = 300 hours x \$80/hour	\$24,000.00
Attorney training	12 hours x 2 attorneys = 24 hours x \$25/hour for registration costs	\$600.00
	\$50 x 2 attorneys for SADO/CDRC	\$100.00
	\$20 x 2 attorneys for NAPD membership	\$40.00
Attorney travel for training	Travel will require two-nights hotel and meals, plus mileage for each attorney	
	Hotel - \$75/night + taxes/fees x 2 nights x 2 attorneys	\$342.36
	Meals - \$36/day x 2 days x 2 attorneys	\$144.00
	Mileage – 320 miles roundtrip x \$.36/mile x 2 attorneys	\$230.40
	Bridge tolls - \$8 x 2 attorneys	\$16.00
Expert and Investigator fees	Investigators = \$75/hr x 60 hours	\$4,500.00
	Experts at MIDC rates up to max Tier I	\$5,500.00
Construction	Space modification/privacy wall	\$8,000.00
	Soundproofing unit to be installed in wall	\$250.00
Supplies and Operating	Polycom unit	\$4,500.00
	<b>Total indigent defense system cost:</b>	<b>\$131,222.76</b>
	<i>Certified local share</i>	<i>(\$63,733.00)</i>
	<b>Grant requested funds:</b>	<b>\$67,489.76</b>

# Sample Plan

## Contract Defender System

### Overview

**How does the system intend to comply with the MIDC Standards?**

We will continue to use our contract defender system.

**Briefly describe the indigent defense delivery system:**

This funding unit contracts with a non-affiliated group of private attorneys who are paid a set amount of money to handle all of the indigent adult criminal case assignments.

**Please provide the names and P#s for all attorneys the funding unit intends to have deliver indigent defense services during the compliance planning year:**

*See attached.*

### Compliance Plan

Describe how the system will comply with each standard adopted by the MIDC.

#### Standard 1 – Training and Education

**Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. Do any attorneys covered in this plan have fewer than two years of criminal defense experience?**

No.

**All attorneys shall annually complete at least twelve hours of continuing legal education. How many attorneys require training in this plan?**

Ten.

## **How will the funding unit ensure that the attorneys satisfy the twelve hours of continuing legal education during the compliance plan year?**

The funding unit will contract for administrative support with the local bar association to identify trainers who will develop quarterly afternoon training sessions specifically designed for the local contract attorneys. Topics will include: latest trends in motion practice, forensic science updates, a Michigan and US Supreme Court caselaw update; sentencing hearings, local practices, and guidelines scoring. The sessions will be held in space available at the courthouse at no cost to attorneys. Included in the contract with the bar association will be administrative time to provide attendance documentation to the MIDC for data collection purposes, pursuant to Michigan Supreme Court Administrative Order 2016-2. Documentation will be submitted to the MIDC no later than 30 days after completion of the course(s).

## **Standard 2 – Initial Interview**

When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.

### **How will attorneys be notified of an appointment?**

The attorneys will receive an email from the court administrator with the Order of Assignment (SCAO Form MC222) that includes complete contact information for the defendant.

### **How will the initial interview be accomplished?**

Attorneys will visit in person when practicable, and will be paid on an hourly basis to be billed in quarter hour increments not to exceed one hour for each initial interview where the defendant is charged with a misdemeanor, or two hours for each initial interview where the defendant is charged with a felony.

### **Does the jail have confidential space for attorney-client interviews?**

Yes. The Sheriff will ensure that there is a private booth or space for attorneys to visit with clients in the custody of the local jail. The room has a door capable of closing for privacy, but with a window so that occupants can be viewed by the jail staff. The conversations cannot be overheard in this space.

### **Does the courthouse have confidential space for attorney-client interviews?**

Not currently, but suitable space is being re-purposed and will be reviewed with the MIDC's Regional Manager for compliance planning purposes.

### **Standard 3 – Experts and Investigators**

**The MIDC standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client's defense. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution's case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.**

#### **How will this standard be complied with by the local system?**

Currently, the fees for experts or investigators are part of the contract paid to attorneys. To comply with the MIDC's standards, a separate line item in the indigent defense budget will be established to pay for the expert or investigative services. The lead contract attorney liaison will assist with the administration of requests for an additional hour each week of the compliance plan year. Based on the most recent year's adult criminal case statistics, it is projected that investigative services will need to be retained at \$60/hour for up to 150 hours of work in the compliance plan year. Expert witnesses will need to be retained as needed by attorneys and at the attorney's discretion, not to exceed the hourly rates published by the MIDC, for a maximum of \$13,000 in the compliance plan year.

### **Standard 4 – Counsel at First Appearance and Other Critical Stages**

**Counsel shall be appointed to provide assistance to the defendant as soon as the defendant's liberty is subject to restriction by a magistrate or judge. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations, and at other critical stages, whether in court or out of court.**

#### **How will this standard be met by the local system?**

Arraignments are conducted three mornings each week, or as needed on an emergency basis. The court will have counsel available in person in the courthouse to handle the twelve hours of sessions each week, or as needed, on an hourly basis, for a total maximum of 15 hours per week added to the current contract.



# System Costs

Category	Calculation method	Total
Current system costs (to be maintained)	Annual contract for direct services for assigned counsel in adult criminal cases	\$300,000.00
Attorney time	Lead contract attorney liaison – 1 hour/week x 50 weeks x \$55/hour (average current contract rate)	\$2,750.00
Attorney time	Initial interviews – 3 hours/week x 10 attorneys x 50 weeks/year = 1500 hours x \$55/hour (average current contract rate)	\$82,500.00
Attorney time	Counsel at first appearance – 15 hours/week x 50 weeks/year = 750 hours x \$55/hour	\$41,250.00
Attorney training	Bar Association (training coordination) 8 hours/session x 4 sessions = 32 hours x \$25/hr (admin support)	\$800.00
	Trainers prep/development and training time (3 hrs prep: 1 hr lecture x 4 [3 hr] sessions) = 48 hrs x \$75/hr (attorneys)	\$3,600.00
	\$50 x 10 attorneys for SADO/CDRC \$20 x 10 attorneys for NAPD membership	\$500.00 \$200.00
Expert and Investigator fees	Investigators = \$60/hr x 150 hours	\$9,000.00
	Experts at MIDC rates up to max Tier II	\$16,000.00
	Total indigent defense system cost	\$456,600.00
	<i>Certified local share</i>	<i>(\$279,360.00)</i>
	<b>Grant requested funds:</b>	<b>\$177,240.00</b>

# Sample Plan

## Existing Public Defender Office

### Overview

#### **How does the system intend to comply with the MIDC Standards?**

We will use our existing county-funded public defender office.

#### **Briefly describe the indigent defense delivery system:**

The County has a public defender office with six salaried attorneys (1 chief, 1 Deputy and four assistant defenders) representing indigent clients full-time. The public defenders are government employees. They do not maintain any other law practice outside of their county employment. As detailed below, we will need to hire one additional full time assistant defender to comply with the MIDC's standards.

The county contracts with three other criminal defense attorneys to provide representation in the event of any ethical conflict of interest (co-defendants, or other conflict based on prior representation, etc).

#### **Please provide the names and P#s for all attorneys the funding unit intends to have deliver indigent defense services during the compliance planning year:**

See attached.

### Compliance Plan

Describe how the system will comply with each standard adopted by the MIDC.

#### **Standard 1 – Training and Education**

**Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. Do any attorneys covered in this plan have fewer than two years of criminal defense experience?**

Yes. Assistant Defender N. Porter is a new lawyer, hired by this office last year. In addition to in-house training described below, she will attend CDAM's

*Trial Practice College: Intensive Training* (Bay City, MI) – 25 hours during the upcoming year as part of the compliance plan.

**All attorneys shall annually complete at least twelve hours of continuing legal education. How many attorneys require training in this plan?**

Up to ten.

**How will the funding unit ensure that the attorneys satisfy the twelve hours of continuing legal education during the compliance plan year?**

The Deputy Director will serve as the Training Director for the office to identify training needs of all staff and contract attorneys, and will coordinate the training programs or facilitate attendance at trainings for all criminal defense attorneys employed by the system. The training will include, at a minimum:

**Client Interviews and ethics in indigent defense:** 4 hours – skills training (afternoon session – in house training conducted by the training director, mandatory attendance for full staff and contract attorneys). This session will focus on the importance of client-centered representation.

**Brown Bag Lunch Sessions:** 1 hour each, 1 day each month (up to 12 hours), in a schedule published by the training director. This will be lecture or discussion style training for staff and contract attorneys. Speakers will be identified and will present in-house on various issues relevant to criminal defense and/or local practice. Topics will include: motion practice, PSIRs and sentencing scoring, MI Court of Appeals and MI Supreme Court published caselaw updates), etc.

**Webinar group viewing:** up to 2 hours each, 1 day each month (up to 24 hours), in a calendar published by the training director with a selection of courses relevant to the practice of indigent criminal defense planned and produced by the National Association for Public Defense (NAPD). These sessions will be open to staff and to contract attorneys. All attorneys included in this plan will become NAPD members and members of SADO's criminal defense resource center. SADO provides complimentary access to full time public defenders; the three contract attorneys will require memberships.

The training director will provide attendance documentation for each event to the MIDC for data collection purposes, pursuant to Michigan Supreme Court Administrative Order 2016-2. Documentation will be submitted to the MIDC no later than 30 days after completion of the course(s).

## **Standard 2 – Initial Interview**

When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.

#### **How will attorneys be notified of an appointment?**

The public defender will receive an email from the court administrator with the Order of Assignment (SCAO Form MC222) that includes complete contact information for the defendant. In the event of any conflict of interest, the assignment will be returned within 24 hours and the court will appoint an attorney from the conflict list.

#### **How will the initial interview be accomplished?**

In order to ensure timely compliance with this standard (and the standard for counsel at first appearance), an additional assistant defender will be hired by the public defender office.

#### **Does the jail have confidential space for attorney-client interviews?**

Yes. Some supplies will be necessary to facilitate video-based initial interviews. For in-person interviews at the jail, it will be necessary to provide overtime payment for some limited hours to Sheriff Deputies for purposes of facilitating the indigent defense visits in a timely manner.

#### **Does the courthouse have confidential space for attorney-client interviews?**

Yes. There are two conference rooms in the courthouse on the main floor of the building. One of the rooms will have new signage to indicate when private meetings are underway so that the occupants are not disturbed.

### **Standard 3 – Experts and Investigators**

**The MIDC standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client’s defense. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution’s case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.**

#### **How will this standard be complied with by the local system?**

The public defender office will hire a full time investigator. The funding unit will also contract with an outside investigator for conflict cases for up to 50 hours per year. The use of that investigator will be coordinated by the designated coordinating contract attorney.

Expert witnesses will need to be retained as needed by the public defender and contract attorneys, approved by either the chief public defender or the coordinating contract attorney in conflict cases, through a budget item not to exceed the hourly rates published by the MIDC, for a maximum of \$21,750 in the compliance plan year.

## Standard 4 – Counsel at First Appearance and Other Critical Stages

**Counsel shall be appointed to provide assistance to the defendant as soon as the defendant’s liberty is subject to restriction by a magistrate or judge. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations and at other critical stages, whether in court or out of court.**

### How will this standard be met by the local system?

In order to ensure timely compliance with this standard (and the standard for initial interviews), an additional assistant defender will be hired by the public defender office.

## System Costs

Category	Calculation method	Total
Current System costs	Budget/Line Item: Public Defender Office	392,236.00
Attorney Staff	One full time assistant defender will be hired in order to comply with the standards. Base salary = \$55,000/yr + fringes & benefits	\$82,500.00
Attorney Administrative time	The coordinating contract attorney will require additional administrative time to coordinate investigations and expert witnesses in conflict cases – up to 25 hours in the compliance year x	\$1,750.00

	\$70/hour current contract average hourly rate.	
Attorney training	25 hours x \$25/hour for trial college registration costs	\$625.00
Attorney travel for training	Other: \$50 x 3 attorneys for SADO/CDRC \$20 x 10 attorneys for NAPD membership	\$150.00 \$200.00
	Travel for trial college will require three -nights hotel and meals, plus mileage  Hotel - \$75/night + taxes and fees x 3 nights Meals - \$36/day x 3 days Mileage – 285 miles roundtrip x \$.36/mile	\$256.77 \$108.00 \$102.60
Expert and Investigator fees	PD Investigator – New Staff Position = \$42,000/yr + fringes & benefits  Investigator - conflicts = \$65/hr x 50 hours Experts at MIDC rates up to max Tier II	\$63,000.00  \$3,250.00 \$21,750.00
Other services	Sheriff deputy overtime payment to facilitate attorney-client interviews within three business days of appointment (\$30/hr x 5/hrs week x 50 weeks)	\$7,500.00
Supplies and Operating	Polycom unit at PD office Sign for attorney/client space	\$4,500.00 \$40.00
	<b>Total indigent defense system cost:</b>	<b>\$577,968.37</b>
	<i>Certified local share</i>	<i>(\$304,720.75)</i>
	<b>Grant requested funds:</b>	<b>\$273,247.62</b>

# Sample Plan

## Transition to Public Defender Office

### Overview

#### **How does the system intend to comply with the MIDC Standards?**

This system will transition from a traditional assigned counsel system to a blended system with a small roster of attorneys and a public defender office each taking about 50% of cases.

#### **Briefly describe the indigent defense delivery system:**

The newly-created defender office will consist of a Chief Defender, Deputy Defender/ Training Director, four staff attorneys, one office investigator, and one administrative assistant, for a total of eight new salaried county employees. Counsel will continue to be assigned to a small roster of qualified attorneys on a rotating basis who will be paid consistent with current amounts, for direct services and expenses in assigned cases (including conflict cases). The attorneys will represent about 50% adult indigent criminal defendants at both the district and circuit court level.

The next standards for caseloads, qualification and review of counsel, independence, and economic disincentives and incentives have been considered for purposes of both current compliance and transition to future compliance with MIDC standards.

The county has existing office space that will be dedicated for the public defender office and staff. County-owned furniture is expected to meet the needs of a new office for purposes of start-up. The compliance request includes funding for outstanding office and workstation supplies.

#### **Please provide the names and P#s for all attorneys the funding unit intends to have deliver indigent defense services during the compliance planning year:**

*See attached.*

# Compliance Plan

Describe how the system will comply with each standard adopted by the MIDC.

## Standard 1 – Training and Education

**Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. Do any attorneys covered in this plan have fewer than two years of criminal defense experience?**

It is anticipated that two of the public defender office attorneys will have two or fewer years of experience.

**All attorneys shall annually complete at least twelve hours of continuing legal education. How many attorneys require training in this plan?**

Thirteen.

**How will the funding unit ensure that the attorneys satisfy the twelve hours of continuing legal education during the compliance plan year?**

The Deputy Director of the new Defender Office will create and implement a training program that will incorporate both the skills training for new attorneys and the Continuing Legal Education for remaining attorneys, including the roster for assigned counsel. The program will be conducted by in-house staff and members of the assigned counsel roster.

The Defender Office will provide any relevant documentation for attendance at the courses to the MIDC for data collection purposes, pursuant to Michigan Supreme Court Administrative Order 2016-2. Documentation will be submitted to the MIDC no later than 30 days after completion of the course(s).

## Standard 2 – Initial Interview

When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.

**How will attorneys be notified of an appointment?**

The public defender office or assigned counsel will receive an email from the court administrator with the Order of Assignment (SCAO Form MC222) that includes complete contact information for the defendant.



### **How will the initial interview be accomplished?**

Public defender staff or assigned counsel attorneys will conduct the interview for their respective clients. An initial interview will be part of the job responsibilities for the assigned assistant defender and the contracting requirements for panel attorneys.

### **Does the jail have confidential space for attorney-client interviews?**

Yes. Some supplies will be necessary to facilitate video-based initial interviews.

### **Does the courthouse have confidential space for attorney-client interviews?**

Limited. For out of custody clients, the new public defender office will provide sufficient space for interviews. Some re-purposing of room use in the courthouse will also allow for some additional space. For in custody clients, the expectation is confidential interviews will have taken place at the local jail or prison. Some scheduling and case call adjustments will allow for confidential space when needed for follow-up communications at the courthouse.

## **Standard 3 – Experts and Investigators**

**The MIDC standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client’s defense. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution’s case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.**

### **How will this standard be complied with by the local system?**

The public defender office will hire an investigator for their indigent defense clients. The funding unit will also contract with an outside investigator for conflict cases for up to 100 hours per year.

Expert witnesses will need to be retained as needed by the public defender and assigned counsel, approved by either the chief public defender or a designated assigned attorney respectively, through a budget item not to exceed the hourly rates published by the MIDC, for a combined (conflict investigator and expert witness) maximum of \$25,000 in the compliance plan year.

## Standard 4 – Counsel at First Appearance and Other Critical Stages

Counsel shall be appointed to provide assistance to the defendant as soon as the defendant’s liberty is subject to restriction by a magistrate or judge. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations and at other critical stages, whether in court or out of court.

### How will this standard be met by the local system?

Through a system of rotating attorneys, the public defender office will provide representation to all clients at arraignments. During arraignment, indigent clients will receive appointments to either the defender office or assigned counsel. Four assistant defenders, one deputy, and one chief defender will allow for assignments of counsel to different courtrooms and representation at arraignments.

## System Costs

Category	Calculation method	Total
Attorneys – assigned counsel (new system)	Line item total: 1500 hours/yr x \$70/hr (variable up to max rate, depending on charge)	\$105,000.00
Attorney Staff (new system)	One Chief Defender, 75,000/yr + fringes & benefits	\$112,500.00
	One Deputy Defender, \$67,500 + fringes & benefits	\$100,500.00
	Four full time assistant defenders \$55,000/yr + fringes & benefits	\$330,000.00
Administrative assistant	One salaried employee, \$40,000 + fringes & benefits	\$60,000.00
Attorney training	Roster attorneys will be paid an honoraria (contracted) to assist with in house training requirements, for a total of 20 hours at a rate of \$75/hour. All other time provided by staff will be part of salary expectations.	\$1,500.00

	Other: \$50 x 5 attorneys for SADO/CDRC \$20 x 13 attorneys for NAPD membership	\$250.00 \$260.00
Expert and Investigator fees	PD Investigator – New Staff Position = \$50,000/yr + fringes & benefits	\$75,000.00
	Investigator - roster = \$50/hr x 150 hours	\$7,500.00
	Experts at MIDC rates up to max Tier II	\$17,500.00
Supplies and Operating	Polycom unit at PD office	\$4,500.00
	Computers, docking stations, and office supplies	\$8,000
	Furniture	\$4,000
	Case management software	\$1,500
	<b>Total indigent defense system cost:</b>	<b>\$828,010.00</b>
	<i>Certified local share</i>	<i>(287,040.00)</i>
	<b>Grant Requested Funds</b>	<b>\$540,970.00</b>

# Sample Plan

## Managed Assigned Counsel – New System

### Overview

#### **How does the system intend to comply with the MIDC Standards?**

This county will transition from a standard assigned counsel system in Circuit Court and contracts with attorney groups in District Courts to an independently Managed Assigned Counsel System (MAC), as defined by the Michigan Indigent Defense Commission's *Guide to Delivery System Reform Models*.

#### **Briefly describe the indigent defense delivery system:**

Currently the Circuit Court administers an assigned counsel system that pays an hourly rate to a panel of fifty attorneys for Circuit Court appointments, while two District Courts contract with a group of private attorneys who are paid a set amount of money to handle all the indigent adult criminal case assignments in each year.

Each of these processes will shift to a new county MAC office, which will pay both District and Circuit Court attorneys an hourly rate. This office will coordinate a total of 65 attorneys in Circuit and District Courts. The new office will feature a Director, a Deputy Director, and an administrative assistant to register the attorneys, administer the assigned counsel system, design a training program, coordinate investigator contracts and expert witness services, and qualify and review attorneys on the roster. In this manner, the MAC system will meet this set of MIDC minimum standards while starting the transition to the next set of MIDC standard compliance.

#### **Please provide the names and P#s for all attorneys the funding unit intends to have deliver indigent defense services during the compliance planning year:**

*See attached.*

# Compliance Plan

Describe how the system will comply with each standard adopted by the MIDC.

## Standard 1 – Training and Education

**Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. Do any attorneys covered in this plan have fewer than two years of criminal defense experience?**

Yes – A combined group of ten Circuit and District Court attorneys.

**All attorneys shall annually complete at least twelve hours of continuing legal education. How many attorneys require training in this plan?**

55

**How will the funding unit ensure that the attorneys satisfy the twelve hours of continuing legal education during the compliance plan year?**

The MAC Director will create and implement a training program that will incorporate both the skills training for new attorneys and the Continuing Legal Education for more experienced attorneys. The MIDC's Director of Training, Outreach & Support will be consulted during the development prior to implementing the programs. The programs will be conducted in-house by contracted trainers throughout the state.

The MAC Office will provide any relevant documentation for attendance at the courses to the MIDC for data collection purposes, pursuant to Michigan Supreme Court Administrative Order 2016-2. Documentation will be submitted to the MIDC no later than 30 days after completion of the course(s).

## Standard 2 – Initial Interview

When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.

**How will attorneys be notified of an appointment?**

The MAC Deputy Director will design and implement an assignments process on a fair rotation with qualification tiers based on the seriousness of the charge

in District and Court. Attorneys will only be assigned to cases through the MAC process. MAC will notify the attorneys as cases are assigned via e-mail.

### **How will the initial interview be accomplished?**

Attorneys will visit in person when practicable, and will be paid on an hourly basis to be billed in quarter hour increments not to exceed one hour for each initial interview where the defendant is charged with a misdemeanor, or two hours for each initial interview where the defendant is charged with a felony.

One requirement of an appointment from the MAC system will be the initial interview of a client. The MAC office will have two interview spaces for attorneys, including a polycom system for videoconferencing with the jail.

### **Does the jail have confidential space for attorney-client interviews?**

Yes. The jail currently conducts client visits through three private booths and one video station. To expand for the anticipated increased demand in client interviews, two more video stations will be necessary. The MAC office will have equipment for this videoconferencing.

### **Does the courthouse have confidential space for attorney-client interviews?**

Yes, the courthouse is making two rooms available for out-of-custody client interviews.

## **Standard 3 – Experts and Investigators**

**The MIDC standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client’s defense. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution’s case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.**

### **How will this standard be complied with by the local system?**

Assigned counsel will no longer request experts and investigative assistance in court. Instead, the MAC Deputy Director will implement a process for counsel to request these services, either via e-mail or through a website. The Deputy Director will serve as a gatekeeper, approving expert and investigator assistance in only appropriate cases. The MAC office will then administer both the expert and investigator contracts and coordinate all payments. It is anticipated that investigative services will need to be retained at \$50/hour for

up to 500 hours of work in the compliance plan year. Expert witnesses will need to be retained not to exceed the hourly rates published by the MIDC, for a maximum of \$25,000 in the compliance plan year.

## Standard 4 – Counsel at First Appearance and Other Critical Stages

**Counsel shall be appointed to provide assistance to the defendant as soon as the defendant’s liberty is subject to restriction by a magistrate or judge. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations, and at other critical stages, whether in court or out of court.**

### How will this standard be met by the local system?

MAC will coordinate roster attorneys so that one attorney is available to serve as counsel at first appearance daily during the work week, for a total maximum of 40 hours per week in one District Court and 20 hours per week in the second District Court, added to the current contract. Ten additional hours per week will be needed for weekend arraignments.

## System Costs

Category	Calculation method	Total
Attorneys – assigned counsel (includes hourly wages for counsel at first appearance and the initial client interview)	Line item total:  Average of 600 hours/yr x \$60/hr (variable up to max rate, depending on charge) x 65 attorneys	\$2,340,000.00
Attorney Staff (new system)	One Managed Assigned Counsel Director, 85,000/yr + fringes & benefits	\$127,500.00
	One Deputy Director, \$67,500 + fringes & benefits	\$100,500.00

Administrative assistant	One salaried employee, \$40,000 + fringes & benefits	\$60,000.00
Attorney training	Attorney instructors will be paid an honoraria (contracted) to assist with in house training requirements, for a total of 20 hours at a rate of \$75/hour. Coordination of the training program by MAC staff will be part of salary expectations.	\$1,500.00
	Other: \$50 x 65 attorneys for SADO/CDRC	\$3,250.00
	\$20 x 65 attorneys for NAPD membership	\$1,300.00
Expert and Investigator fees	Investigator - roster = \$50/hr x 500 hours	\$25,000.00
	Experts at MIDC rates up to max Tier III	\$25,000.00
Supplies and Operating	Polycom unit at PD office; Two polycom units at jail	\$13,500.00
	Computers, docking stations, and office supplies	\$3,000.00
	Software / Website interface for case management, roster management, and expert / investigator requests	\$50,000.00
	Total indigent defense system cost:	\$2,750,550.00
	<i>Certified local share</i>	<i>(\$1,300,000.00)</i>
	<b>Grant Requested Funds</b>	<b>\$1,450,550.00</b>



# Sample Plan

## Transition to a Regional Defender Office

### Overview

#### **How does the system intend to comply with the MIDC Standards?**

Three counties will transition from separate contract systems to a Regional Defender Office with both a small public defender office handling 50% of felony cases and counsel at first appearance, and a roster of attorneys that will handle the other 50% of felony cases and all misdemeanors. The Regional Defender Office will coordinate training, assignments, experts and investigators, and appointments for all adult criminal case assignments in the circuit courts and district courts in the three counties.

#### **Briefly describe the indigent defense delivery system:**

Per M.C.L. § 124.501 et. seq., these three counties will establish a Regional Defender Office with a public defender office and a managed assigned counsel system.

First, a public defender office consisting of five attorneys, an administrator, and a part-time investigator will represent clients in 50% of felony cases and counsel at first appearance. One attorney will be assigned to each of the Circuit Courts, one attorney will handle counsel at first appearance, and the fifth attorney will function as the Chief Defender, with a partial caseload.

Second, an Assigned Counsel Coordinator will work in the Regional Defender Office to assign counsel for the other 50% of felony cases and all misdemeanors, and to approve expert and investigator requests for these attorneys. This attorney will also have a partial felony caseload, consisting of only single-defendant cases to avoid conflicts of interest in expert or investigator approvals. In total, the roster will consist of ten attorneys, including the Assigned Counsel Coordinator.

The Regional Defender Office will also be structured to meet future standards through qualifications for assignments, supervision of defenders, and review of roster attorneys.

The largest county has existing office space that will be dedicated for the Assigned Counsel Coordinator, Chief Defender, and two attorneys. The other two counties will provide an office for each attorney. The compliance request includes funding for the remaining office and workstation supplies.

**Please provide the names and P#s for all attorneys the funding unit intends to have deliver indigent defense services during the compliance planning year:**

*See attached.*

## **Compliance Plan**

Describe how the system will comply with each standard adopted by the MIDC.

### **Standard 1 – Training and Education**

**Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. Do any attorneys covered in this plan have fewer than two years of criminal defense experience?**

It is expected that one salaried public defender and one assigned counsel attorney will have two or fewer years of experience.

**All attorneys shall annually complete at least twelve hours of continuing legal education. How many attorneys require training in this plan?**

Fifteen.

**How will the funding unit ensure that the attorneys satisfy the twelve hours of continuing legal education during the compliance plan year?**

The Chief Defender and the Assigned Counsel Coordinator will work together to create and implement a training program that will incorporate both the skills training for new attorneys and the continuing legal education for remaining attorneys. This training program will serve the entire Regional Defender Office – both the public defender side and the assigned counsel side. The program will be conducted by in-house staff and members of the assigned counsel roster. The MIDC's Director of Training, Outreach & Support will be consulted during the creation and implementation of the program to ensure compliance.

The Defender Office will provide any relevant documentation for attendance at the courses to the MIDC for data collection purposes, pursuant to Michigan

Supreme Court Administrative Order 2016-2. Documentation will be submitted to the MIDC no later than 30 days after completion of the course(s).

## **Standard 2 – Initial Interview**

When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.

### **How will attorneys be notified of an appointment?**

The Regional Defender Office will receive an email from the court administrator with the Order of Assignment (SCAO Form MC222) that includes complete contact information for the defendant. The Assigned Counsel Coordinator will then assign 50% felony cases in a rotation to the defender office, and the other 50% and all misdemeanors to the attorneys on the regional assigned counsel list.

### **How will the initial interview be accomplished?**

Public defender staff or assigned counsel attorneys will conduct the interview for their respective clients. An initial interview will be part of the job responsibilities for the assigned assistant defender and the contracting requirements for assigned attorneys.

### **Does the jail have confidential space for attorney-client interviews?**

Two of the jails have good facilities for confidential space while the third jail will need \$25,000 for a renovation project to create sufficient space. Construction plans are attached detailing the project, which was determined to be necessary for the purpose of implementing the standard.

### **Does the courthouse have confidential space for attorney-client interviews?**

The primary defender office and satellite offices have interview space. For assigned counsel, the three courthouses have limited, but sufficient interview space. One county will need \$20,000 in renovation expenses in order to facilitate the confidential interviews.

## **Standard 3 – Experts and Investigators**

**The MIDC standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client’s defense. Counsel shall**

**request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution's case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.**

**How will this standard be complied with by the local system?**

The public defender office will hire a part-time investigator for their indigent defense clients. The Regional Defender Office will also contract with outside investigators for up to 150 hours per year.

Expert witnesses will need to be retained as needed by the public defender and assigned counsel, approved by either the chief public defender or the assigned counsel coordinator respectively, through a budget item not to exceed the hourly rates published by the MIDC, for a combined (conflict investigator and expert witness) maximum of \$25,000 in the compliance plan year.

**Standard 4 – Counsel at First Appearance and Other Critical Stages**

**Counsel shall be appointed to provide assistance to the defendant as soon as the defendant's liberty is subject to restriction by a magistrate or judge. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations and at other critical stages, whether in court or out of court.**

**How will this standard be met by the local system?**

Through one attorney and the already existing polycom unit in each courthouse, and a new polycom unit in the Regional Defender Office, the public defender side of the Regional Defender Office will provide representation to all clients at arraignments. After arraignment, indigent clients will receive appointments to either the defender office or assigned counsel through the Assigned Counsel Coordinator.

## System Costs

Category	Calculation method	Total
Attorneys – assigned counsel (includes the initial interview)	Line item total:	
	Average of 1,000 hours/yr x \$60/hr (variable up to max rate, depending on charge) x 9 attorneys	\$540,000.00
Attorney Staff (new system)	One Chief Defender, 75,000/yr + fringes & benefits	\$112,500.00
	One Assigned Counsel Coordinator, \$67,500 + fringes & benefits	\$100,500.00
	Four full time assistant defenders \$55,000/yr + fringes & benefits	\$330,000.00
Administrative assistant	One salaried employee, \$40,000 + fringes & benefits	\$60,000.00
Attorney training	Roster attorneys and statewide trainers will be paid an honoraria (contracted) to assist with in house training requirements, for a total of 20 hours at a rate of \$75/hour. All other time provided by staff will be part of salary expectations.	\$1,500.00
	Other: \$50 x 10 attorneys for SADO/CDRC membership	\$500.00
	\$20 x 15 attorneys for NAPD membership	\$300.00
Expert and Investigator fees	Part-time PD Investigator – New Staff Position = \$30,000/yr + fringes & benefits	\$45,000.00
	Investigator - roster = \$50/hr x 150 hours	\$7,500.00
	Experts at MIDC rates up to max Tier II	\$17,500.00
Supplies and Operating	Polycom unit at Regional Defender Office	\$4,500.00
		\$8,000

	Computers, docking stations, and office supplies	\$4,000
	Furniture	\$1,500
	Case management software	
Renovation expenses	Single jail renovation	\$25,000
	Single court renovation	\$20,000
	Total indigent defense system cost:	\$1,278,300.00
	<i>Certified local share</i>	<i>(510,040.00)</i>
	<b>Grant Requested Funds</b>	<b>\$768,260.00</b>

# Sample Plan Public Defender Administrator – New System

## Overview

### **How does the system intend to comply with the MIDC Standards?**

We intend to employ a licensed attorney in good standing with the State Bar of Michigan as a public defender administrator in a newly created position. The new position will be called the Director of the Indigent Defense Counsel Services (IDSC). The Director shall be responsible for contracting with and overseeing local attorneys to provide legal services to criminal indigent defendants. The Director will implement, monitor, and maintain compliance with the MIDC standards. The Director will also prepare, monitor and administrator IDSC annual plan and budgets.

### **Briefly describe the indigent defense delivery system:**

Currently this funding unit contracts with a non-affiliated group of private attorneys who are paid a set amount of money to handle all of the indigent adult criminal case assignments. The IDSC will oversee this system and report directly to the county administrator.

### **Please provide the names and P#s for all attorneys the funding unit intends to have deliver indigent defense services during the compliance planning year:**

*See attached.*

## Compliance Plan

Describe how the system will comply with each standard adopted by the MIDC.

### **Standard 1 – Training and Education**

**Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition**

**class. Do any attorneys covered in this plan have fewer than two years of criminal defense experience?**

No.

**All attorneys shall annually complete at least twelve hours of continuing legal education. How many attorneys require training in this plan?**

Eleven.

**How will the funding unit ensure that the attorneys satisfy the twelve hours of continuing legal education during the compliance plan year?**

The IDSC will ensure that the contract defenders attend CDAM's spring conference in Troy, Michigan, including breakout sessions and all plenary sessions.

The IDSC will ensure that CDAM provides attendance documentation to the MIDC for data collection purposes, pursuant to Michigan Supreme Court Administrative Order 2016-2. Documentation will be submitted to the MIDC no later than 30 days after completion of the spring conference.

## **Standard 2 – Initial Interview**

When a client is in local custody, counsel shall conduct an initial client intake interview within three business days after appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.

**How will attorneys be notified of an appointment?**

The IDCS will directly contact the attorneys about an assignment to confirm availability. Once assigned, the attorney will be provided with complete contact information for the defendant.

**How will the initial interview be accomplished?**

Attorneys will visit in person when practicable, and will be paid on an hourly basis to be billed in quarter hour increments not to exceed one hour for each initial interview where the defendant is charged with a misdemeanor, or two hours for each initial interview where the defendant is charged with a felony.

**Does the jail have confidential space for attorney-client interviews?**

Yes. The Sheriff will ensure that there is a private booth or space for attorneys to visit with clients in the custody of the local jail. The room has a door capable



of closing for privacy, but with a window so that occupants can be viewed by the jail staff. The conversations cannot be overheard in this space.

### **Does the courthouse have confidential space for attorney-client interviews?**

Yes, for defendants not in custody of the local jail, attorneys can use a private consultation room in the attorney lounge on the third floor of the courthouse.

## **Standard 3 – Experts and Investigators**

**The MIDC standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client’s defense. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution’s case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.**

### **How will this standard be complied with by the local system?**

The IDSC will coordinate all payments to investigators and expert witnesses. It is anticipated that investigative services will need to be retained at \$50/hour for up to 100 hours of work in the compliance plan year. Expert witnesses will need to be retained as needed by attorneys and at the attorney’s discretion, not to exceed the hourly rates published by the MIDC, for a maximum of \$5,000 in the compliance plan year.

## **Standard 4 – Counsel at First Appearance and Other Critical Stages**

**Counsel shall be appointed to provide assistance to the defendant as soon as the defendant’s liberty is subject to restriction by a magistrate or judge. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations, and at other critical stages, whether in court or out of court.**

### **How will this standard be met by the local system?**

The IDSC will coordinate contract attorneys so that one attorney is available to serve as counsel every morning during the work week, for a total maximum of 20 hours per week added to the current contract.

## System Costs

Category	Calculation method	Total
Current system costs (to be maintained)	Annual contract for direct services for assigned counsel in adult criminal cases	\$325,000.00
Public Defender Administrator	New, salaried IDSC position =85,000/yr + fringes & benefits	\$127,500.00
Attorney time	Initial interviews – 2 hours/week x 10 attorneys x 50 weeks/year = 1000 hours x \$55/hour (average current contract rate)	\$55,000.00
Attorney time	Counsel at first appearance – 20 hours/week x 50 weeks/year = 1000 hours x \$55/hour	\$55,000.00
Attorney training – including travel expenses	CDAM Spring Conference	
	Registration for 11 attorneys	\$3,300.00
	Travel to conference	
	Hotel (\$75/night + taxes, fees x 2 nights per attorney x 11 attorneys)	\$2,054.16
	Meals - \$36/day x 2 days x 11 attorneys	\$792.00
	Mileage – 264 miles roundtrip x \$.36/mile x 4 attorneys (carpooling planned)	\$380.16
	\$50 x 10 attorneys for SADO/CDRC	\$500.00
	\$20 x 10 attorneys for NAPD membership	\$200.00
Expert and Investigator fees	Investigators = \$50/hr x 100 hours	\$5,000.00
	Experts at MIDC rates up to max Tier I	\$5,000.00
	<b>Total indigent defense system cost</b>	<b>\$579,726.32</b>
	<i>Certified local share</i>	<i>(\$254,235.00)</i>
	<b>Grant requested funds:</b>	<b>\$325,491.32</b>