



MICHIGAN INDIGENT
DEFENSE COMMISSION

Date: Tuesday, June 16, 2020, Time: 11:00 a.m.
Meeting will be held remotely via Zoom:

<https://us02web.zoom.us/j/86887491704>

Meeting ID: 868 8749 1704
One tap mobile
+19292056099,,86887491704# US (New York)

MEETING AGENDA**

1. Roll call and opening remarks
2. Introduction of Commission members and guests
3. Public comment
4. Additions to agenda
5. Consent agenda – April 2020 Meeting Minutes
6. Chair Report
7. Executive Director Report
8. Commission Business
 - a. Welcome and Introduction of New Commissioners
 - b. MIDC FY19 Annual Report (Action Requested)
 - c. Legislative and Budget Update
 - d. FY21 Compliance Planning Process
 - FY21 MIDC grant contract (Action requested)
 - Proposed Grant Manual (Action requested)
 - Report and Recommendation of Compliance Planning Committee (Action requested)
 - Compliance Plan Assessment Tool
 - e. FY20 Compliance Updates
 1. Budget adjustments
 - FY20 2nd Quarter Reporting
 - Budget adjustments
 2. Planning costs for City of Detroit
 - f. Review of Initial FY21 Compliance Plan Submissions
 1. Extensions related to declared state of emergency (Action requested)
 2. Review of FY21 Compliance Plans and Cost Analyses:
 - Barry County
 - D50 Pontiac
 - Roscommon County
 - Antrim County

** This meeting will be conducted consistent with the requirements set forth in Executive Order 2020-48, Temporary authorization of remote participation in public meetings and hearings. Persons who wish to contact members of the Commission to provide input or ask questions on any business that will come before the public body at the meeting should send an email to Deborah Mitchell at mitchelld20@michigan.gov.

- Benzie/Manistee Counties
- Chippewa County
- Emmet County
- Gogebic County
- Kalkaska County
- Luce County
- Ontonagon County
- Otsego County
- Hillsdale County
- D 18 Westland
- D 24 Allen Park
- D 28 Southgate
- D 31 Hamtramck
- Grosse Point Park
- Grosse Point City/Municipal
- D 47 Farmington
- D 48 Bloomfield
- Mecosta County

9. Next meeting – **August 18, 2020 at 11:00 a.m.**
10. Adjourn

** This meeting will be conducted consistent with the requirements set forth in Executive Order 2020-48, Temporary authorization of remote participation in public meetings and hearings. Persons who wish to contact members of the Commission to provide input or ask questions on any business that will come before the public body at the meeting should send an email to Deborah Mitchell at mitchelld20@michigan.gov.

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held electronically via Zoom.

The notice included information for members of the public on how to participate.

April 21, 2020

Time: 11:10 am

Commission Members Participating

Michael Puerner, Chair, Tracy Brame, Kimberly Buddin, Judge Jeffrey Collins, Nathaniel Crampton, Andrew DeLeeuw, Judge James Fisher, Christine Green, Joseph Haveman (joined at 1:00 pm), James Krizan, Margaret McAvoy, Tom McMillin, John Shea, William Swor, Gary Walker

Commission Members Absent

Nancy Diehl, Frank Eaman, Cami Pendell

Staff Members Participating

Loren Khogali, Andrea Johnson, Barbara Klimaszewski, Marla McCowan, Kelly McDoniel, Rebecca Mack, Deborah Mitchell, Susan Prentice-Sao, Christopher Sadler, Jonah Siegel, Nicole Smithson, Kristen Staley, Melissa Wangler and Marcela Westrate

Chair Puerner called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 11:10 am.

He asked meeting participants to observe a moment of silence in appreciation of our front line employees for their courage in helping to reduce COVID-19 suffering, in sympathy of those who are battling the illness, in memory of those who have passed, and in hope that this situation will teach us new paths to unity, civility, and humanity.

Introduction of Commission members and guests

Chair Puerner introduced Takura Nyamfukudza, who serves as the MIDC’s representative on the Michigan Joint Taskforce on Jail and Pretrial Incarceration.

Public Comment

No members of the public wished to provide comments.

Approval of the Agenda

There were no additions to the agenda. Commissioner McAvoy moved that the agenda be approved. Commissioner Swor seconded the motion. The motion carried.

Consent Agenda

Commissioner Green moved that the consent agenda containing the minutes from the March 27, 2020 special meeting be approved. Commissioner Krizan seconded the motion. The motion carried.

Chair Report

Chair Puerner provided an overview of the meeting agenda and materials. He has worked with MIDC staff to reconfigure the Commission’s committees and provided an updated list of assignments to Commissioners. The Compliance Planning Committee will address potential budget

issues and will make recommendations to the Commission on how to proceed in approving compliance plans during a challenging budget situation.

Executive Director Report

Ms. Khogali thanked staff for the work they are doing to assist systems in responding to COVID-19 and for ensuring that systems were equipped to use technology to comply with MIDC standards. She provided an overview of the anticipated shortfalls with the state budget and potential impacts on MIDC funding.

After the March meeting, all funding units and stakeholders received a letter reaffirming the requirement to continue complying with the MIDC standards. In April, letters were sent to local funding units acknowledging the hard work the MIDC is seeing among partners and making sure that funding units are focused on ensuring compliance plans are directly and reasonable related to MIDC standards as we approach the next fiscal year.

Commission Business

COVID-19 Criminal Justice Advocacy

Chair Puerner invited Commissioner Buddin to provide an update about her work at the ACLU-MI and the broader criminal justice advocacy landscape in response to COVID-19. Commissioner Buddin discussed the work the ACLU-MI has been doing with its partner organizations.

Michigan Joint Task Force on Jail and Pretrial Incarceration Report and Update

Takura Nyamfukudza, the MIDC's representative on the task force, provided an update on the final report and answered questions from members of the Commission.

FY20 Compliance Planning Process

Plan changes

MIDC staff approved minor changes to plans in two systems, the 40th District Court - St. Clair Shores and Muskegon County. Ms. McCowan provided Commissioners with an overview of the changes.

Ms. McCowan and Ms. Prentice-Sao provided an overview of Cass County's request for a substantive plan change.

Cass County's previously approved plan provided for a MIDC Grant Coordinator for a total salary of \$20,800 and total fringe benefits of \$14,976. Implementation of this part of the plan was delayed due to a delay in hiring for this MIDC Grant Coordinator position. Cass County is requesting a "no cost" plan revision to include a Managed Assigned Counsel. MIDC staff recommends approval.

Commissioner Shea moved that Cass County's plan change be approved. Ms. McAvoy seconded the motion. The motion carried.

Budget adjustments

Ms. Mack approved the following budget adjustment requests; these adjustments did not impact the total system cost:

- Bay County
- Calhoun County
- Clinton County
- 20th District Court - Dearborn Heights
- 30th District Court - Highland Park
- 33rd District Court - Trenton
- 34th District Court - Romulus
- 48th District Court Bloomfield
- Delta County
- Kalkaska County
- Livingston County
- Menominee County
- Muskegon County
- Oakland C 6 & D 52-1, 2, 3, 4
- Ottawa County
- St. Clair County
- Wexford and Missaukee

Ms. Mack denied the following budget adjustment requests:

- 17th District Court – Redford
- 50th District Court - Pontiac

Substantive review of third/final submissions

Ms. McCowan and Ms. McDoniel presented an overview of the 22nd District Court - City of Inkster's resubmitted plan and cost analysis. MIDC staff recommends adopting both the plan and cost analysis.

Commissioner Fisher moved that that the staff recommendation be adopted and that the resubmitted plan and cost analysis be approved. Commissioner Shea seconded the motion. The motion carried.

FY19 Financial/Program Reporting

Ms. Mack and Ms. McCowan provided an update on what staff has received for financial reporting from the City of Inkster. Staff is still seeking verification of several issues, including the amount of FY 19 funding that was unspent. Ms. Khogali provided an overview of the notifications provided to the city requesting the documentation.

Commissioner Green moved that the Executive Director notify the funding unit, the City of Inkster, that funding for the approved FY 20 contract will not be distributed until complete financial reporting for FY 19 is submitted to the MIDC. Commissioner Walker seconded the motion. The motion carried.

Local System Funding Received from Michigan Department of Corrections

Ms. Mack and Ms. McCowan provided an overview of this issue. In FY 19, several local systems received funding from the MDOC as reimbursement for indigent defense representation in adult criminal trial courts totaling \$254,297.41.

Commissioner Shea moved that MIDC staff should direct local funding units to report reimbursements received from the Michigan Department of Corrections for which funding is also provided through the MIDC grant as part of program income and report it quarterly or at the end of the fiscal year in the final quarterly report. Commissioner Walker seconded the motion. The motion carried.

The Commission recessed for 10 minutes.

FY 21 Compliance Planning Process

Ms. Khogali and Ms. McCowan provided an update on the status for FY 21 compliance planning. Ms. McCowan answered questions from Commissioners.

FY 21 MIDC Grant Contract

Ms. Khogali met with the Michigan Association of Counties and other stakeholders regarding the language in the contract. Feedback from those meetings has been incorporated into the document presented to the Commission. She will present a final version of the contract for the Commission's review and approval at the June meeting. Judge Fisher indicated that he would like language in section 1.0 modified, he will send that language to Ms. Khogali for her review.

Proposed Grant Manual

Commissioner Green moved that the issue of adopting the grant manual be removed from the table. Commissioner Swor seconded the motion. The motion carried.

Chair Puerner presented the manual to members of the Commission and discussed its purpose. Ms. Khogali provided an explanation of changes. Commissioners asked questions and recommended changes that should be made.

Commissioner Walker moved that the document be approved subject to the editorial changes discussed by the Commission and that it be vetted by the Executive Committee through staff and presented for final ratification by the Commission. Commissioner Krizan seconded the motion. The motion carried.

Assessment Tool

Dr. Siegel provided an overview of an assessment tool that he and Mr. Sadler are creating. They will both work with the Compliance Planning Committee over the next month to refine it. This tool will provide another method for reviewing compliance plans and the funding requested from local systems.

Draft Indigency Standard

Ms. Smithson provided an overview of the process used to formulate the proposed standard. She reviewed the standard with the Commission and answered questions from Commissioners.

The draft standard will be reviewed by the committee for final revisions consistent with the Commission's discussion. The final version of the standard will be before the Commission for a public hearing at an upcoming meeting.

The next meeting will be June 16, 2020 at 11:00 a.m.

Commissioner Swor moved that the meeting be adjourned. Commissioner Green seconded the motion. The motion carried. The meeting was adjourned at 2:34 pm.

Respectfully submitted,
Marcela Westrate



MICHIGAN INDIGENT
DEFENSE COMMISSION

Date: June 8, 2020
To: MIDC Commissioners
From: Loren Khogali, Executive Director

Dear Commissioners:

I'm looking forward to seeing you remotely on June 16th at 11:00a.m. The link to participate on the Zoom meeting is in the agenda, as well as the email you received with materials. If you are not able to attend the meeting, please let me know. My cell phone is (517) 275-2845.

Welcome to our new commissioners! On May 22nd, Governor Whitmer announced three appointments to the MIDC. **Josh Blanchard** was appointed to represent the Criminal Defense Attorneys of Michigan, **David Jones** was appointed to represent the State Bar of Michigan and **Judge Kristina Robinson Garrett** was re-appointed in her new role representing the Michigan District Judges Association. The press release from the Governor's office can be read [here](#).

At its upcoming meeting, the Commission will reflect on the many transformative successes in indigent defense in 2019 as laid out in the annual impact report. It will also begin the process of reviewing 120 indigent defense compliance plans for fiscal year 2021 funding. The Commission's ongoing work to fulfill the State of Michigan's continued commitment to investing in local, quality indigent defense systems occurs amidst the devastation of COVID-19 and the exemplification of the systemic racism that continues to underpin our national, state and local criminal legal systems in George Floyd's killing by police in Minneapolis.

The importance of having resourced, committed indigent defense systems in Michigan has never been clearer than right now. A recent [snapshot of incarceration trends in Michigan](#) published by the Vera Institute of Justice shows the disproportionate representation of Black people in Michigan jails and prisons. While Black people constitute 15% of state residents, they account for 37% of people in jail and 53% of people in prison. As jails and prisons quickly became epicenters for the spread of COVID-19, public defense attorneys were leaders, engaging in early advocacy to ensure that incarcerated persons most vulnerable to contracting COVID-19 were released on bond and returned to the community with necessary supports. They often collaborated with other stakeholders, including the courts, jails and prosecutors, to achieve the release of clients. As a result, there has been a drastic reduction in Michigan jail populations.

Since its April meeting, the Commission staff has continued to support indigent defense systems as they navigate limitations on client and court access, appearances in remote proceedings and approach reopening their offices. As affirmed by the Commission, staff has continued to process COVID-related budget adjustment requests for technology and hygiene items to facilitate MIDC standards. In May, MIDC partnered with the State Appellate Defender Office to host an online training for over 250 attorneys on navigating and preserving issues in remote court proceedings. We've gathered and connected leaders from indigent defense systems across the state to share ideas and brainstorm solutions to the unique challenges they and their clients face related to COVID.

As everyone on this Commission knows, appropriately resourced indigent defense systems protect those most vulnerable to having their fundamental constitutional rights disregarded by the current criminal legal structure. The constitutional right to counsel is a check on the formidable power wielded by police, prosecutors and the courts in the criminal legal system and indigent defense systems are a critical component to a public safety system that values justice.

Thanks to all of you, and especially the staff of the MIDC, for the time and care that you dedicate to ensuring that there are adequate resources in place to protect the constitutional rights of all persons in Michigan who are charged in the criminal system.

Review of FY21 Compliance Plans and Grant Contracts

At our June Commission meeting, we will begin the process of reviewing plans and cost analyses submitted by local funding units for approval. In the materials, you will find a summary memo from Marla McCowan, which will walk you through the status and process for review of submitted plans. The plans for review, as indicated on the agenda, are available in the shared drive.

Upon consultation with the Compliance Planning Committee and members of the Executive Committee, it was determined that it made sense to cancel the July Commission meeting. When the meeting schedule was developed at the beginning of the year, the due date for compliance plans was April 30th and the July meeting was added specifically for the purpose of reviewing compliance plans within the statutory timeline. In March, the Commission voted to extend the compliance plan submission deadline to May 31st in response to the resources being directed at mitigating COVID-19. Initially, MIDC staff had intended to manage an accelerated schedule for reviewing the plans. However, in June, all MIDC staff were furloughed one day per week through the end of July, with the days split among the staff. The Office of the State Employer has directed that furloughed employees may not work on assigned furlough days. As such, the collective staff is only accessible to each other for purposes of reviewing compliance plans three days per week. In addition, our Grant Assistant left MIDC to take another position closer to her home. While I am working on obtaining an exemption from the current state government-wide hiring freeze, we are currently working to review plan cost analyses with one dedicated staff member. Finally, the vast majority of the plans were submitted the last few days of May and June 1. Consequently, it was necessary to make the administrative decision to cancel the July meeting, placing the bulk of the plans on the August meeting agenda. Even this will be a rigorous schedule to review and prepare 98 plans for the Commission's consideration. The Commission may consider leading up to the August meeting whether it needs to schedule an additional August or early September meeting to review plans.

This year, we will be approaching the issuance of grant contracts differently. MIDC and LARA will be issuing grant contracts as plans are approved by the Commission. This will allow the local funding units to initiate their local governmental approval process for the contract, which will allow MIDC to complete the process for distributing funding more quickly once an appropriation occurs. The distribution funds under the contract, as well as full compliance with the plan is premised on an appropriation that covers the totality of the cost of the plans approved by the Commission.

LARA

There are a few important developments to advise the Commission of with respect to the Department of Licensing & Regulatory Affairs (LARA). First, if you recall, LARA Deputy Director Adam Sandoval attended the Commission's April meeting to share LARA's proposal for MIDC to move to the 4th floor of the Ottawa Building, where the Executive Office of LARA is located.

Commission Chair Puerner and I met in May with Adam regarding MIDC's lease and LARA's proposal to move MIDC to the Ottawa Building. Consistent with what the Executive Committee's discussion, we took seriously the cost savings involved in moving to the Ottawa Building and, given the concerns about maintaining the autonomy from the Department that the Commission is afforded by the MIDC Act, looked for alternative options that resulted in cost savings. Our Commission Chair did an excellent job negotiating with our current landlord, which resulted in the offer of a five-year lease that was equal to LARA's proposed lease for the first two years and a savings of more than \$40,000 from our current lease. The lease involved gradual increases and in year five would still be \$10,000 less than our current lease payments. Mike also contacted a real estate agent who identified some lease spaces that were equal in cost to LARA's proposal. Mike and I presented these alternative solutions to Adam and LARA adhered to the position that MIDC would benefit from the sharing of centralized services and that DTMB was encouraging the maximization of space in state buildings and informed us that LARA would be starting construction on the Ottawa Building space and would be moving MIDC there in July.

There are a couple important issues to note here. First, I will continue to be frank that I think it is a mistake for MIDC to be moved into the Ottawa Building. From my perspective, it will inevitably impact the autonomy the Commission retains under the statute. Because our work is constitutional in nature, I do not believe that MIDC can be equated to other Type I autonomous agencies within LARA. Because the Commission's substantive work is based on our ability to secure funding for compliance with minimum standards through grants, there is significant overlap in what LARA considers administrative decisions under its purview and the substantive decisions that the Commission makes. Moreover, as partners in the criminal legal system with the courts and prosecutors, I worry about the MIDC being so deeply imbedded in LARA that it loses its autonomy to adequately advocate in the executive and legislative branches with respect to the budget for local indigent defense service grants. I remain concerned about the Commission ceding its' authority to make an important administrative decision, the impact of this move long term and what it means for staff's work on behalf of the Commission and the Commission's ability to advocate under the Act. All of that being said, I have talked with staff about the anticipated move

and will work with LARA to make the transition as smooth as possible. We have a dedicated, smart and nimble staff, who will undoubtedly continue its excellent work wherever we are housed.

Second, we have tentatively identified a schedule to move to the Ottawa Building at the end of July. However, due to COVID-19, construction on the space in which MIDC was intended to move was stopped. As of last week, that construction had not been resumed. In addition, LARA is in the process of developing a phased return to work plan. Because we will be moving from an office in which only a limited number of people access the office and it is quite simple to social distance, to an office space shared with 1,500 employees and significantly more shared common areas, I want to ensure that we have concrete plans in place to keep our staff health and safe. MIDC staff is well-equipped and able to work effectively remotely for as long as necessary and I would appreciate the Commission's support in exercising my discretion administratively about the health and safety of MIDC's staff.

With respect to our operational budget, we worked with LARA's Financial and Administrative Services division to identify the 2.5% and 7.5% budget reductions to the Commission's FY20 budget as requested by the State Budget Office. Due to delay in hiring a position, the imposed hiring freeze and anticipated reductions in travel related to COVID-19, we were able to accomplish that without losing staff or substantive parts of our operational budget. I am working to obtain an exemption from the hiring freeze with respect to two positions – the grant assistant position, as well as the training FTE, which was authorized by Civil Service just as the hiring freeze was imposed. It is important to note that unencumbered work project funds have also been identified as a potential source of dollars to address the COVID-related impact on the FY20 budget. We have one work project with an unencumbered balance that is designated to pay the cost of compliance planning as identified by the funding units.

Finally, we continue to partner with LARA's Executive Office and Office of Policy and Legislative Affairs on policy and budget advocacy in the legislature and executive branch. The Executive Committee approved the letter included in the materials to be sent to the LARA Executive Office with the intent of assisting LARA in their advocacy with respect to the grants that fund indigent defense services. Both Mike and I signed the letter. Included in the materials is a more detailed report from Marcela Westrate on the appropriations process and budget advocacy during this unusual year.

Compliance Planning Committee

The Compliance Planning Committee has met twice since the Commission's April meeting to discuss the overarching process for reviewing compliance plans, the reconfiguration of the committees that serve as an important resource to staff and the Commission in the review of compliance plans, as well as to begin to proactively identify and strategize with respect to the known pressures on the FY20 and FY21 budget. Thank you for Commissioner Collins for serving as committee chair. Notes from the committee meetings and a committee list with descriptions is included in the materials. The committee will reconvene in early July to continue its discussion.

Indigency Standard

At its April meeting, the Commission reviewed the draft standard on eligibility screening and referred it back to committee to be finalized and published for public comment for a future

meeting. The committee convened and provided feedback on the draft standard. Staff also solicited some informal feedback from indigent defense stakeholders. Input from the committee and stakeholders has been incorporated into the draft standard. The committee will reconvene to review and finalize the draft standard to be published for public comment. We anticipate holding a public hearing in late summer/early fall. We continue to track the potential approval by LARA of Standard 5 as the timing of approval may impact how the Commission wishes to proceed with the indigency standard. Thank you to Nicole Smithson for her truly excellent work in drafting the standard and synthesizing and incorporating feedback into the draft.

Online Court Proceedings

As a response to COVID, the Michigan Supreme Court and SCAO have been facilitating the use of Zoom for court proceedings to increase access to the courts during this public health crisis. The court issued an Administrative Order suspending jury trials through June 22 and implementing a pilot project for remote jury trials. A SCAO workgroup chaired by Judges Marlinga and Gauthier met to kick off the pilot. The workgroup is large with a number of defense attorneys, including a couple of the chief public defenders. As you might imagine, the reaction includes concerns about the constitutional and practical implications of conducting jury trials, remotely, as well as acknowledges the potential benefits and efficiencies of utilizing technology to facilitate attorney/client meetings and some proceedings. To the extent that the increased use of technology in the courts impacts the 6th Amendment right to counsel, best practices and training needs for indigent defense counsel and technology needs for indigent defense systems, it is an important area in which the Commission may wish to contribute. You can read the Administrative Order of the Court [here](#).

Grant Management System

MIDC staff continues to work with DTMB and HTC in implementing a new grant management system, eGrams. The most recent project status reports are included in the materials packet. We anticipate piloting the submission of plans and reporting through eGrams with a handful of systems over the next couple months. It is exciting to see the grant management system come together in a way that will serve our systems, staff and the Commission. Thanks to Rebecca for her leadership on this important project.

Office of Internal Audit Services

The Office of Internal Audit Services (OIAS) completed its review of MIDC's internal processes for assessing financial compliance by local funding units as well as conducting audits of six funding units. They had initially intended to audit seven systems but were unable to complete their review of Wayne County due to the onset of COVID-19.

OIAS's team is currently in the process of writing its report. Thanks to Rebecca for her time in providing information to OIAS and the Regional Managers for assisting with questions about individual systems, which greatly assisted OIAS in its work.

I am hopeful that as a major program within LARA, that MIDC will be able to reengage OIAS again next year to continue to support u in refining internal processes for review of financial reporting, as well as to conduct audits of an additional set of local funding units.

Local Share Study RFP

A 2018 amendment to the MIDC Act added a requirement that the MIDC “submit a report to the governor, the senate majority leader, the speaker of the house of representatives, and the appropriations committees of the senate and house of representatives not later than October 31, 2021 that includes a recommendation regarding the appropriate level of local share, expressed in both total dollars and as a percentage of the total cost of compliance for each indigent criminal defense system.” The Commission previously approved a proposed statement of the study to be conducted and incorporated as the statement of work in an RFP. The [RFP](#) was issued at the beginning of May. In the next few weeks, we will be convening a small committee of stakeholders to review the received proposals. I will keep the Commission updated as to progress on that project.

EO on Open Meetings Act

Since March, we have been (very successfully) holding Commission meetings remotely under the Governor’s Executive Order extending the modifications to OMA in response to COVID. Currently, those modifications are set to expire at the end of June absent an EO extending them. It is possible that we will be holding our August Commission meeting in person. If we do so, we will be required to find a large enough space to accommodate appropriate social distancing for the Commission, staff and public. I do want to take moment to acknowledge Marla’s skilled facilitation of our remote Commission meetings. Our well-organized and smoothly run virtual meetings have been noticed within state government. Attendance by the public at our meetings has increased through providing virtual access, arguably increasing access to the public consistent with the intent of OMA. I will keep the Commission updated as to any developments with respect to our August meeting.

These next few months will be incredibly busy as the staff and Commission undertake the review of 120 local system compliance plans and cost analyses. Please do not hesitate to reach out if you have any questions along the way – 517-275-3512.

PMM-13	EGrAMS - MIDC Implementation (MIDC) Status Report for the period ended 06/05/2020
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A. General Information

Project ID:	EGrAMS-MIDC	Date:	5 th June, 2020
From:	Joseph Rodrigues	Reporting Period:	06/01/2019 – 06/05/2020
To:	Steven Heath		
CC:	Rebecca Mack, Jim Parker		
Current SUITE Phase	COTS Implementation	Current Status	GREEN
Start Date:	10-17-2019	End Date - Warranty:	09-30-2020

Project Is On Plan Ahead of Plan Behind Plan

B. Executive Summary of Activity for the Reporting Period

HTC has completed the development for the Skip Logic enhancement. System testing is planned for next week.

C. High Level Schedule for Reporting Period

#	Description	Responsibility	Baseline Date	Actual Date	% Complete / Status
1.	EGrAMS Phase II Development – Skip Logic	HTC	05/15/2020	06/05/2020	Complete
2.	EGrAMS-MIDC Support	HTC	Ongoing		WIP
3.					
4.					
5.					
6.					
7.					
8.					

D. Accomplishments during the Reporting Period

#	Description
1.	EGrAMS Phase II Development – Skip Logic
2.	
3.	
4.	
5.	
6.	

E. Planned Accomplishments for the following Reporting Period

#	Description	Scheduled Completion Date
1.	EGrAMS Phase II – Skip Logic System Testing	06/12/2020
2.	EGrAMS-MIDC Support	Ongoing
3.	EGrAMS MIDC – Review FY-2021 Sample Applications	06/12/2020
4.		

PMM-13	EGrAMS - MIDC Implementation (MIDC) Status Report for the period ended 06/05/2020
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F. Summary of Milestones Completed

#	Description	Completion Date
1.	EGrAMS-MIDC Implementation Project Schedule	11/08/2019
2.	MIDC Compliance Plan Application Process Flow	11/11/2019
3.	EGrAMS-MIDC Requirements Confirmation meetings	11/20/2019
4.	EGrAMS-MIDC Requirements Confirmation document	12/20/2019
5.	EGrAMS-MIDC Initiation & Planning Stage Exit Walkthrough	01/06/2020
6.	EGrAMS-MIDC NIST Security Control Questionnaire (14 Controls)	01/24/2020
7.	Configuration of MIDC Compliance Plan & Cost Analysis	01/24/2020
8.	Completed response to queries / clarifications from LARA / DTMB on EGrAMS-MIDC NIST Security Control Questionnaire Response	02/04/2020
9.	MIDC Compliance Plan System Test	02/27/2020
10.	Activated EGrAMS-MIDC Test Environment Setup on AWS	02/28/2020
11.	EGrAMS Train-the-Trainer hand-outs	04/03/2020
12.	Train-the-Trainer Training to MIDC	04/07/2020
13.	Set up / Activate EGrAMS-MIDC AWS Production environment	04/10/2020

G. Other Project Status Attachments (Mark checkbox if respective document is attached)

#	Description	Attachment	Attachment File Name
1.	Action Items	<input type="checkbox"/>	
2.	Issue Log	<input type="checkbox"/>	
3.	Risk Assessment Log	<input type="checkbox"/>	
4.	Updated Project Schedule	<input type="checkbox"/>	
5.	Test Log	<input type="checkbox"/>	
6.	Others	<input type="checkbox"/>	

PMM-13	EGrAMS - MIDC Implementation (MIDC) Status Report for the period ended 05/08/2020
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A. General Information

Project ID:	EGrAMS-MIDC	Date:	8 th May, 2020
From:	Joseph Rodrigues	Reporting Period:	05/04/2019 – 05/08/2020
To:	Steven Heath		
CC:	Rebecca Mack, Jim Parker		
Current SUITE Phase	COTS Implementation	Current Status	GREEN
Start Date:	10-17-2019	End Date - Warranty:	09-30-2020

Project Is On Plan Ahead of Plan Behind Plan

B. Executive Summary of Activity for the Reporting Period

HTC is working on the development for Phase II Requirements enhancements
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C. High Level Schedule for Reporting Period

#	Description	Responsibility	Baseline Date	Actual Date	% Complete / Status
1.	EGrAMS Phase II Development – Skip Logic	HTC	05/15/2020		WIP
2.	EGrAMS-MIDC Support	HTC	Ongoing		WIP
3.	EGrAMS-MIDC Phase II Requirements Review	HTC	05/05/2020	05/05/2020	Complete
4.					
5.					
6.					
7.					
8.					

D. Accomplishments during the Reporting Period

#	Description
1.	EGrAMS-MIDC Phase II Requirements Review
2.	
3.	
4.	
5.	
6.	

E. Planned Accomplishments for the following Reporting Period

#	Description	Scheduled Completion Date
1.	EGrAMS Phase II Development – Skip Logic	05/15/2020
2.	EGrAMS-MIDC Support	Ongoing
3.		
4.		

PMM-13	EGrAMS - MIDC Implementation (MIDC) Status Report for the period ended 05/08/2020
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F. Summary of Milestones Completed

#	Description	Completion Date
1.	EGrAMS-MIDC Implementation Project Schedule	11/08/2019
2.	MIDC Compliance Plan Application Process Flow	11/11/2019
3.	EGrAMS-MIDC Requirements Confirmation meetings	11/20/2019
4.	EGrAMS-MIDC Requirements Confirmation document	12/20/2019
5.	EGrAMS-MIDC Initiation & Planning Stage Exit Walkthrough	01/06/2020
6.	EGrAMS-MIDC NIST Security Control Questionnaire (14 Controls)	01/24/2020
7.	Configuration of MIDC Compliance Plan & Cost Analysis	01/24/2020
8.	Completed response to queries / clarifications from LARA / DTMB on EGrAMS-MIDC NIST Security Control Questionnaire Response	02/04/2020
9.	MIDC Compliance Plan System Test	02/27/2020
10.	Activated EGrAMS-MIDC Test Environment Setup on AWS	02/28/2020
11.	EGrAMS Train-the-Trainer hand-outs	04/03/2020
12.	Train-the-Trainer Training to MIDC	04/07/2020
13.	Set up / Activate EGrAMS-MIDC AWS Production environment	04/10/2020

G. Other Project Status Attachments (Mark checkbox if respective document is attached)

#	Description	Attachment	Attachment File Name
1.	Action Items	<input type="checkbox"/>	
2.	Issue Log	<input type="checkbox"/>	
3.	Risk Assessment Log	<input type="checkbox"/>	
4.	Updated Project Schedule	<input type="checkbox"/>	
5.	Test Log	<input type="checkbox"/>	
6.	Others	<input type="checkbox"/>	



MICHIGAN INDIGENT
DEFENSE COMMISSION

June 1, 2020

Adam Sandoval, Deputy Director
Licensing & Regulatory Affairs Department

Dear Adam:

We appreciate the recent conversations about how LARA can be supportive of MIDC. In anticipation of the meeting regarding budget strategy this week, we thought it important to take the offered opportunity to identify some specific ways in which LARA can partner with and support MIDC during the budget process. In doing so, it is helpful to look back at the impetus for the MIDC being established.

The investments in Michigan's indigent defense system are only recent and have provided critical resources to bring representation up to constitutional standards. The creation of the MIDC Act followed decades of major deficiencies in the State's public defense system and the state deferring its responsibilities under the 6th Amendment to the counties. This led to a class action lawsuit filed by the ACLU of Michigan in 2007 that argued that, because of the State's failure to fund the counties' systems, indigent defendants were denied a constitutionally adequate defense. Even before the lawsuit was filed, the Michigan Senate asked the National Legal Aid and Defender Association to evaluate Michigan's system for providing indigent defense and make recommendations for reform. That report, issued in 2008, found that Michigan fell below minimum constitutional requirements and failed to supervise the severely underfunded system run by individual counties. As a result, the MIDC was created to develop and dedicate state funding to minimum standards for public defense that complied with constitutional requirements.

Funding for the MIDC's first set of standards was distributed for the first time only last year, and we are already seeing the direct benefits of the State's investment in representation for those who need it most. In the last two years, 22 public defender offices have been established and resourced. Nearly 2000 attorneys will receive relevant training with the \$1.4 million provided to fund MIDC's Standard 1. Nearly 90% of systems now report having confidential meeting space for attorneys to meet with clients – a marked change from meeting in public courtrooms, hallways and even bathrooms. A process for attorneys to request experts and investigators has been established in almost every trial court system. And, perhaps the most compelling statistic, the State's funding is ensuring that hundreds of thousands of indigent clients have representation at arraignment. Having counsel present at first appearance ensures that a defendant's most fundamental rights to understand the charges against them and make informed decisions are met. Arraignment counsel also ensures that people are not unnecessarily detained, a costly common practice that unnecessarily removes people from their families, jobs and communities. The presence of counsel can also result in the early and just resolution of cases. State-led leadership through the MIDC has fostered widely adopted best practices and efficiencies, while preserving local control and accountability.

These important and necessary changes have required an investment of resources by the Governor and legislature that we recognize is challenged in the current budget situation. However, a continued commitment to the MIDC minimum standards and an essential investment in meeting the state's public safety responsibilities are both critical right now

As the Governor's five-year strategic plan acknowledged, indigent defense is a critical component of public safety. This has never been more apparent than in the context of COVID-19. Even before law enforcement, jails and courts started taking the steps to minimize county jail populations urged by the Governor in sections 2 and 3 of Executive Order 2020-62, it was public defenders who immediately and tirelessly filed motions and argued for their clients release from county jails to protect their clients and the public from the spread of COVID-19. Their efforts helped courts to develop a rational framework for release, undoubtedly saving lives and eliminating the potential for lawsuits against county jails.

Now, as Michigan courts begin to implement new technology with the goal of providing access to justice during this public health crisis, it will be public defenders that will ensure that the state continues to meet its obligation to adhere to the constitutional requirements of right to counsel and due process on behalf of indigent persons. Public defenders, working alongside other criminal justice stakeholders, will be critical in protecting against wrongful convictions in this newly chartered technological territory that presents numerous potential constitutional and practical hurdles.

Indeed, as the yet-unknown impacts of the economic crisis that will follow this pandemic take their toll, the number of those who are eligible for court-appointed assistance will undoubtedly increase. This is an opportunity to make Michigan the model that other states can follow and ensure that indigent defendants' constitutional rights are viewed as fundamental to our public safety. LARA's support and proactive advocacy is going to be critical to preserving funding for public defense in Michigan. We believe that this can be accomplished in partnership by working together on the following:

- Developing proactive strategies for communicating with the Governor's office about the importance of public defense as a critical component of the State of Michigan's commitment to public safety;
- Identifying public defense as a priority for funding to the legislature;
- Communicating to the Governor's office and legislature the potential consequences of failing to fund public defense. This includes:
 - Local funding units determining that they are no longer statutorily obligated to provide right to counsel under the MIDC minimum standards;
 - Reinforcing racial and ethnic disparities in arrests and prosecutions by disinvesting in public defense resources;
 - Increases in wrongful convictions;
 - Reinstating prior constitutional shortfalls in indigent defense that led to the original lawsuit against the State of Michigan.

We realize that this is an unprecedented situation and that there are extremely hard budget decisions that need to be made but the State risks both the moral crisis of failing to serve some of its poorest, most vulnerable citizens and being the subject of new lawsuits if it does not continue to provide funding to local systems to implement the MIDC minimum standards. We look forward to continuing to work with you to advocate for the MIDC's continued funding.

Sincerely,

Michael Puerner, Chair
Michigan Indigent Defense Commission

Loren Khogali, Executive Director
Michigan Indigent Defense Commission

2019

IMPACT REPORT

Indigent Defense Transformation

Begins Statewide



MICHIGAN INDIGENT
DEFENSE COMMISSION

Preface

This report captures the fifth full year of work by the Michigan Indigent Defense Commission (MIDC). We accomplished an extraordinary amount this year: distributing over \$87 million to local systems to comply with minimum standards for indigent defense, evaluating the implementation of compliance plans, and supporting a second year of funding for all trial court systems across the state.

The MIDC's standards ensure that due process is upheld for those most vulnerable to being disenfranchised of their constitutional rights in the criminal legal system. Because of the standards, every indigent adult charged with a crime in Michigan – from low level misdemeanors to severe felonies – has access to adequate resources to defend themselves in court. Assigned attorneys are now consistently trained to ensure competency and heightened skill. Clients are given confidential and timely access to an attorney, regardless if they are in jail or at home. And, perhaps most importantly of all, no one stands alone in court, as those accused of a crime are given counsel from the first in-court appearance until the last.

But our work has only just begun.

This report features highlights of the Commission's impact around every region in the great State of Michigan; however, we simultaneously acknowledge that **we have more to do**. The novel coronavirus (COVID-19) has ravaged our state and our citizens, especially those incarcerated in Michigan's prisons and jails. We know that the criminal legal system continues to disproportionately impact people and communities of color at a staggering rate and that significant effort from all stakeholders is required to combat systemic racism and ensure justice for all. While we have seen significant investment in indigent defense as part of the State's public safety initiative over the past two years, it is important to remember that commitment comes on the heels of decades upon decades of no investment of state resources to defend the constitutional rights of those charged in criminal court and requiring an appointed attorney.

As this next year unfolds, we look forward to employing the MIDC's mandate to ensure that all Michiganders have access to counsel and to due process, and we remain committed to exploring innovative best practices so that Michigan remains a leader in public defense services for the nation to model.

June 2020

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Michigan Indigent Defense Commission Members

Michael Puerner, Chair, Ada

Represents the Senate Majority Leader

Hon. Thomas Boyd, Okemos

Represents the Michigan District Judges Association

Tracey Brame, Grand Rapids

Represents the Chief Justice of the Michigan Supreme Court

Kimberly Buddin, Novi

Represents bar associations whose primary mission or purpose is to advocate for minority interests

Jeffrey Collins, Detroit

Represents the Senate Majority Leader

Nathaniel “Hakim” L. Crampton, Jackson

Represents the general public

Andrew D. DeLeeuw, Manchester

Represents the Michigan Association of Counties

Nancy J. Diehl, Detroit

Represents the State Bar of Michigan

Frank Eaman, Pentwater

Represents the Criminal Defense Attorneys of Michigan

Hon. James Fisher (Retired), Hastings

Represents the Michigan Judges Association

Christine A. Green, Ann Arbor

Represents the State Budget Office

Joseph Haveman, Holland

Represents the Speaker of the House of Representatives

James R. Krizan, Allen Park

Represents the Michigan Municipal League

Margaret McAvoy, Owosso

Represents the Michigan Association of Counties

Tom McMillin, Oakland Township

Represents the Speaker of the House of Representatives

Cami M. Pendell

Supreme Court Chief Justice Designee, ex officio member

John Shea, Ann Arbor

Represents the Criminal Defense Attorneys of Michigan

William Swor, Grosse Pointe Woods

Represents the Criminal Defense Attorneys of Michigan

Gary Walker, Marquette

Represents the Prosecuting Attorneys Association of Michigan

Overview of the Commission

The Michigan Indigent Defense Commission (MIDC) was created by legislation in 2013. The MIDC Act is found at MCL §780.981 *et. seq.*

The MIDC develops and oversees the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that criminal defense services are delivered to all indigent adults in this state consistent with the safeguards of the United States constitution, the Michigan constitution of 1963, and with the MIDC Act.

The Governor makes appointments to the 18-member Commission pursuant to MCL §780.987, and began doing so in 2014. The interests of a diverse group of stakeholders in the criminal legal system are represented by Commissioners appointed on behalf of defense attorneys, judges, prosecutors, lawmakers, the state bar, bar associations advocating for minorities, local units of government, the state budget office, and the general public.



New Commissioners

During the reporting year, Governor Gretchen Whitmer made a number of appointments pursuant to amendments to the MIDC Act expanding stakeholder interests in the composition of the Commission:

- **Tracey Brame, of Grand Rapids**, is the associate dean at Western Michigan University Thomas M. Cooley Law School in Grand

Rapids and a professor and co-director of the Access to Justice Clinic. She earned her Juris Doctor degree from University of Michigan Law School. Ms. Brame is appointed to succeed Kristina Robinson whose term expired April 1, 2019, to represent the Chief Justice of the Supreme Court for a term expiring April 1, 2023.

- **Kimberly Buddin, of Novi**, is policy counsel with the ACLU of Michigan and a VAWA/U-Visa Pro-Bono Attorney at the Michigan Immigrant Rights Center. She earned her Juris Doctor degree from Michigan State University Law School. Ms. Buddin is appointed to succeed Brandy Robinson who resigned March 20, 2019, to represent bar associations whose primary mission or purpose is to advocate for minority interests, for a term expiring April 1, 2020.
- **Nathaniel “Hakim” L. Crampton, of Jackson**, is the Michigan statewide organizer for JustLeadershipUSA, a case manager for the Community Action Agency with the Jackson Housing Commission, and a youth action Michigan adult ally with the Student Advocacy Center of Michigan. Mr. Crampton is appointed to succeed David Schuringa whose term expired April 1, 2019, to represent the general public for a term expiring April 1, 2023.
- **Andrew D. DeLeeuw, of Manchester**, is an executive assistant to the county administrator of Washtenaw County. He earned his Master of Public Policy from the University of Michigan’s Gerald R. Ford School of Public Policy. Mr. DeLeeuw is appointed to fill a new seat created by Act 443 of 2018, to represent the Michigan Association of Counties for a term expiring April 1, 2023.

- **James R. Krizan, of Allen Park**, is the assistant to the city manager for the City of Royal Oak and the former village manager for the Village of Decatur. Mr. Krizan is appointed to fill a new seat created by Act 443 of 2018, to represent the Michigan Municipal League for a term expiring April 1, 2023.
- **Christine A. Green, of Ann Arbor**, is a trustee with the Scio Township Board of Trustees and a retired attorney with Green & Green, PC. She earned her Juris Doctor degree from the University of Michigan Law School. Ms. Green is appointed to fill a new seat created by PA 214 of 2018, to represent the State Budget Office for a term expiring April 1, 2023.
- **Margaret A. McAvoy, of Owosso**, is the county administrator controller for Isabella County and serves on the Board of Directors and Executive Committee for the Great Lakes Bay Michigan Works! Ms. McAvoy is appointed to fill a new seat created by Act 443 of 2018, to represent the Michigan Association of Counties for a term expiring April 1, 2023.



In addition to the Governor's appointments, **Michigan Supreme Court General Counsel Cami M. Pendell** was appointed by the Chief Justice as an *ex officio* member of the Commission during the reporting year, succeeding Thomas P. Clement.

Notable Commissioner Accomplishments

The Commissioners regularly donate an extraordinary amount of time to positions of leadership in the legal community outside of their work on the Michigan Indigent Defense Commission. During the reporting year, Commissioner **Kimberly Buddin** was appointed to the **Advisory Board for the Michigan Intelligence Operations Center for Homeland Security**, Commissioner **Tracey Brame** was named as the incoming **President of the Grand Rapids Bar Association**, Commissioner **Tom Boyd** was appointed to **Michigan's Joint Task Force on Jail and Pretrial Incarceration**, and Commissioner **William W. Swor** became the **Chair-Elect of the American Board of Criminal Lawyers**.

Information about all of the Commissioners can be found **on the MIDC's website**.

Commission Meetings

The Commission met eight times during the reporting year. The meetings are open to the public. Most Commission meetings were held at the Commission's downtown Lansing office of the Capitol National Bank Building, though in an effort to allow wider access to the public, the Commission began using the Michigan Bankers Association for meetings. The times and location of the meetings are made widely available on the Commission's website, and



alternate access including telephone call-in options are often used by members of the public as well. A significant portion of the Commission's work this year was devoted to facilitating approval of compliance plans submitted by systems statewide. Minutes from the Commission meetings are available on the [MIDC's website](#).

Agency Operations

Executive Director and Staff

In 2019, the Michigan Indigent Defense Commission was supported by Executive Director Loren Khogali and thirteen full time staff members. During the reporting year, the Commission welcomed several new staff members:

- **Nicole Smithson** is the new Regional Manager for the Lapeer, Macomb, Oakland, and St. Clair County Region. Prior to working

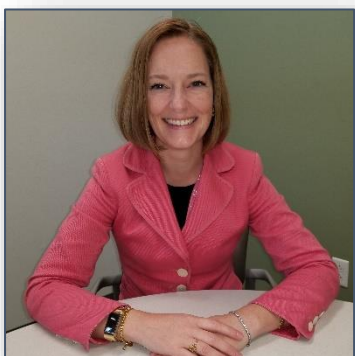


for the MIDC, Ms. Smithson was an attorney with Holzman Law, PLLC, working in its bankruptcy, creditor's rights, litigation, mergers and acquisitions, and real estate departments. She has experience as a sole practitioner representing

individuals in criminal, juvenile, domestic relations, and probate matters. She previously consulted for the JUSTICIA Foundation for Development and Human Rights in Lebanon on projects for the World Bank and the United Nations Development Program. She

also served as a staff attorney/magistrate at the Butler County Common Pleas Court and a judicial law clerk at the Arizona Court of Appeals, Division Two. Ms. Smithson replaced Regional Manager Tanya Grillo, who returned to private practice at the beginning of the reporting year.

- **Susan Prentice-Sao** is the new Regional Manager for Western Michigan. Prior to joining the MIDC, she represented indigent



defendants for over a decade in Kalamazoo County and surrounding areas. She has experience as a sole practitioner representing individuals in criminal, juvenile, neglect, domestic relations, probate, and bankruptcy matters. Ms. Prentice-Sao replaced

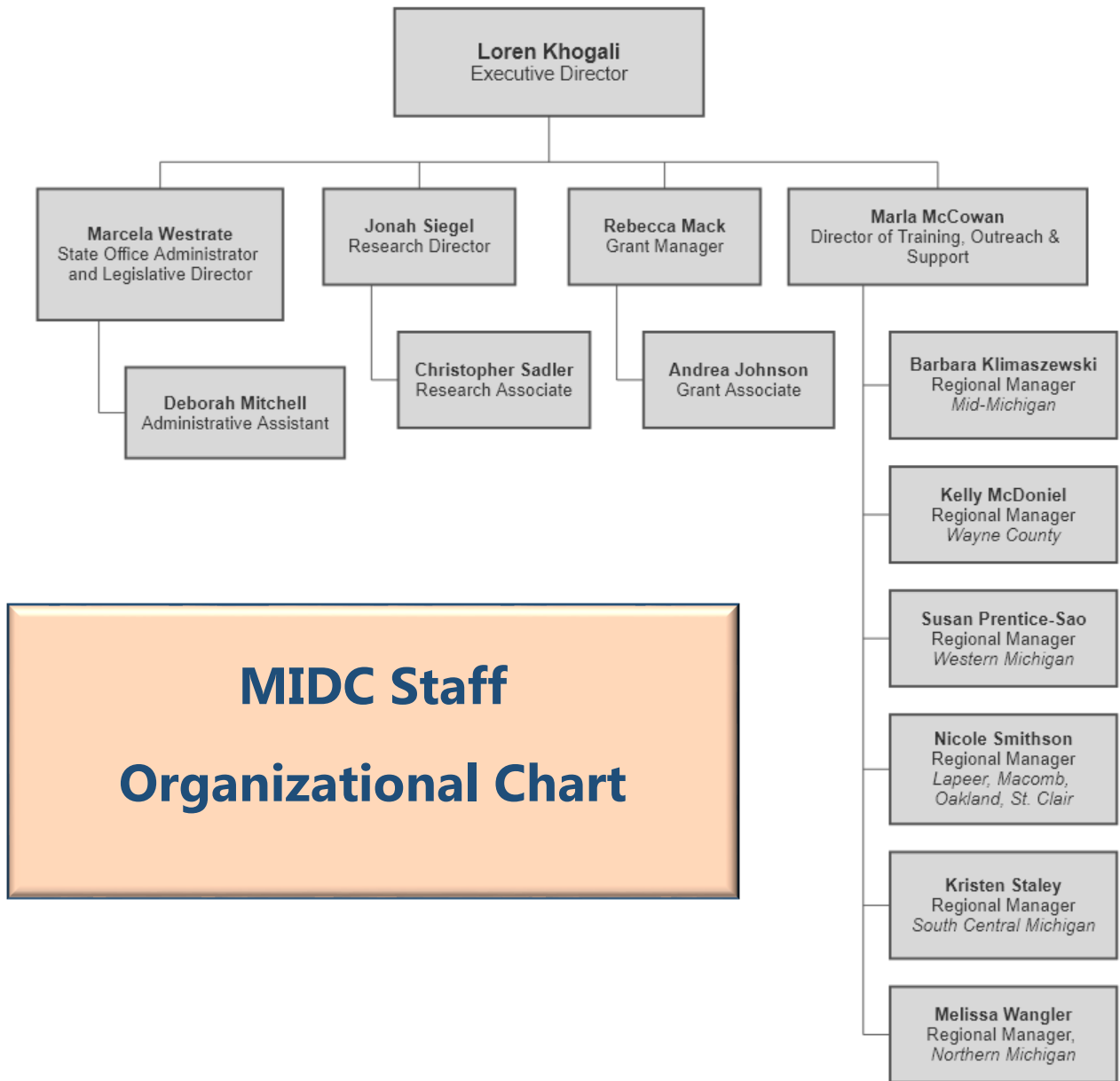
Regional Manager Christopher Dennie, who became the Director of the Kent County Office of the Defender at the beginning of the reporting year.

- **Andrea Johnson** joined the staff as a Grant Associate during the



reporting year, bringing her experience in accounting at the Plymouth District Court to her role assisting the MIDC's Grant Manager with reporting requirements for trial court systems across Michigan.

The organizational staff structure was prepared by the Executive Director pursuant to MCL §780.989(1)(d)(i) and at the conclusion of 2019 appeared as follows:



**MIDC Staff
Organizational Chart**

Notable Staff Accomplishments

In 2019 Governor Whitmer established several important task forces, including the **Michigan Poverty Task Force** charged with ensuring that state government brings the full force of its efforts and resources to the fight against poverty. MIDC **Executive Director Loren Khogali** was named as a member of the task force at the end of 2019 and will work with other designees from state departments and agencies charged with making recommendations to the Governor towards these efforts.

Each year the **State Bar of Michigan** presents the **Champion of Justice Award** to a member possessing “integrity and adherence to the highest principles and traditions of the legal profession, superior professional competence, and an extraordinary professional accomplishment that benefits the nation, the state, or the local community in which the lawyer or judge lives.” In 2019 **Marla R. McCowan** was presented with the award along with two other Michigan attorneys. Ms. McCowan has been part of the original staff to the Commission serving as the Director of Training, Outreach and Support since 2015.

Agency Operational Budget

The MIDC is required by statute to publish its budget and a listing of all expenditures. Annual budget, salary, and related information is listed for the fiscal year pursuant to MCL §780.999. The MIDC’s total appropriation to maintain agency operations for the 2019 fiscal year was \$2,420,700.

In the reporting year, the MIDC had 14 full-time employees whose salaries, insurance and retirement benefits are included in the first

FY 19 Appropriation:	\$2,420,700.00
Salaries & Wages	\$1,102,473.00
Longevity & Insurance	\$146,887.00
Retirement & FICA	\$634,176.00
Terminal Leave	\$12,212.00
Travel (In & Out of State)	\$28,685.00
Communications	\$18,977.00
Contractual Services	\$119,491.00
Supplies & Materials	\$23,521.00
Equipment	\$120.00
Cost Allocations	\$87,041.00
Information Technology	\$40,704.00
TOTAL Expenditures	\$2,214,287.00
Remaining Appropriation	\$206,413.00

three categories. The total spending for these three lines was lower than anticipated because of staff transitions during the fiscal year. The travel line includes both employee and Commissioner travel-related expenses. Contractual Services includes the MIDC's office rent. Supplies and materials includes

the MIDC's contract with an information technology vendor. Cost allocations includes the amount that the Department of Licensing and Regulatory Affairs charges the MIDC to manage the agency's payroll, human resources, budgetary and other functions.

A statutory provision allows the MIDC 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. In 2019, these work projects served to fund compliance planning costs for funding units and projects related to best practices, data collection and research.

Website

The MIDC maintains a 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. The MIDC posts news and noteworthy issues, information about meetings and upcoming events, and resources for compliance planning and implementation as described in this report. The website had **25,239 visits in 2019** (an increase from 19,362 visits in 2018). The most popular pages cover the MIDC's standards, grants, policies, and reports.

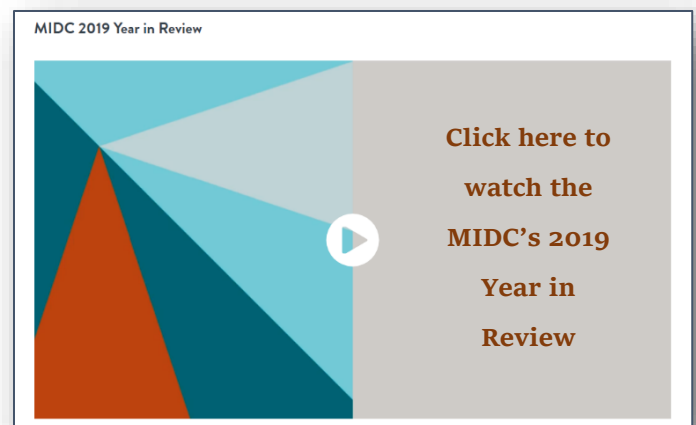
First Full Year of Compliance Plan Funding and Implementation Completed

Overview

This year marked a significant achievement for indigent defense reform in Michigan. The MIDC secured \$86.7 million in funding for 134 trial court systems to comply with the first four standards approved by the Commission. Those standards include training for assigned counsel, initial interviews by attorneys within three business days from assignment, funding for experts and investigators, and counsel at first appearance and other critical stages of the proceedings. Approximately 85% of the funding is for direct services to indigent defendants: services such as attorney fees, expert witness and investigative assistance.

In addition to setting standards and providing funding for trial court systems, the Commission remained dedicated to providing support at the local level in order to ensure successful implementation of the system's specific plan. To that end, the MIDC staff hosted webinars throughout this year to assist stakeholders with the program and financial reporting components of the compliance plans that were approved by the Commission. The MIDC staff also spent hundreds of hours in the field meeting with local partners to assess progress on implementing the standards and to watch criminal case proceedings in every county in Michigan. This approach has cultivated meaningful partnerships between the Commission and individual communities statewide, and allowed for both insight and flexibility as systems worked hard to reform their local programs according to their own identified needs. The Commission's efforts surrounding funding, oversight, implementation, and transformation of indigent defense are detailed below.

As a companion to this report, the MIDC published a **short video story capturing highlights of the Commission's accomplishments this year.**

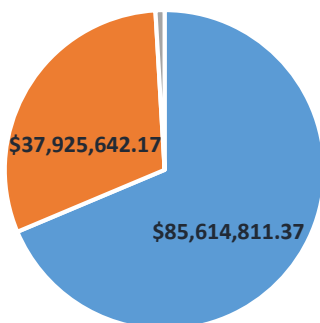


Funding Distributed for Fiscal Year 2019

The 2018 annual report detailed the Commission’s work to process and approve compliance plans and cost analyses from all 134 trial court funding units in Michigan. The State of Michigan’s commitment to addressing the statewide constitutional crisis by reforming its indigent defense system was reflected in an appropriation of \$86.7 million to distribute to local systems for compliance with the minimum standards.

Pursuant to the MIDC Act, a local system is required to comply with their approved plan within 180 days after receiving funding through the grant process. Grant contracts were executed beginning in October of

FY19 Total System Cost
\$124,685,576.92



- MIDC Funding Distributed
- Local Share Spending
- Lapsed Grant Award

2018, and funding was distributed pursuant to Commission policy as set forth in the contracts throughout 2019. The MIDC allowed fifty percent of the award to be disbursed up front so the local systems could make progress towards compliance immediately. The remainder of the grant dollars were provided on a quarterly basis through a reporting and disbursement process during the 2019 fiscal year. All but one system¹ signed a grant

contract with the MIDC and the Department of Licensing and Regulatory Affairs (LARA) to receive full funding to comply with the standards.

¹ The 36th District Court for the City of Detroit did not sign a contract prior to the end of FY2019 resulting in their grant award of \$1,145,123.38 lapsing to the State’s general fund.

Some systems coordinated indigent defense delivery in their plans for compliance resulting in **125 total contracts** for the 134 trial court funding units identified statewide. All systems are required to contribute the average amount expended on indigent defense in the three years prior to the MIDC Act’s passage in 2013. The Act requires the “local share” to be maintained with minimal annual increases consistent with the CPI. These local dollars are combined with the state grant funds to comprise the total system cost and is monitored through a special fund described in the MIDC Act. The local share statewide totals \$37.9 million that the individual systems contribute towards indigent defense.

Funding Unit(s) of Approved Plan	Total System Cost	Local Share	Grant Request
Lapeer, Macomb, Oakland, St. Clair			
D 37 - Warren and Centerline	\$1,031,580.03	\$120,164.14	\$911,415.89
D 38 Eastpointe	\$471,543.60	\$51,867.33	\$419,676.27
D 39 Roseville and Fraser	\$1,099,766.99	\$88,307.00	\$1,011,459.99
D 40 St Clair Shores	\$454,918.02	\$6,927.06	\$447,990.96
D 41a-1 Sterling Heights	\$241,233.53	\$0.00	\$241,233.53
D 41a-2 - Utica, Macomb, Shelby	\$434,214.00	\$0.00	\$434,214.00
D 41b - Mt. Cl, Harris., Clinton	\$386,516.92	\$42,680.20	\$343,836.72
D 43-1 Hazel Park	\$1,121,167.96	\$17,979.33	\$1,103,188.63
D 43-2 Ferndale	\$636,682.12	\$14,979.00	\$621,703.12
D 43-3 - Madison Heights	\$463,791.17	\$1,743.02	\$462,048.15
D 44 - Royal Oak	\$390,210.00	\$22,204.00	\$368,006.00
D 45 - Oak Park	\$250,230.52	\$41,262.00	\$208,968.52
D 46 - Southfield	\$503,681.00	\$81,000.00	\$422,681.00
D 47 Farmington/Hills	\$189,674.28	\$21,439.28	\$168,235.00
D 48 Bloomfield	\$335,239.76	\$17,087.59	\$318,152.17
D 50 Pontiac	\$812,676.00	\$17,635.00	\$795,041.00
D 51 - Waterford	\$274,618.23	\$31,122.50	\$243,495.73
Lapeer County	\$483,783.49	\$107,480.42	\$376,303.07
Macomb C 16 & D 42-1, 42-2	\$4,762,401.00	\$2,193,874.00	\$2,568,527.00
Oakland C 6 & D 52-1, 2, 3, 4	\$6,741,014.00	\$1,828,758.00	\$4,912,256.00
St. Clair County	\$882,623.00	\$734,024.00	\$148,599.00
Mid-Michigan			
Alcona County	\$149,199.00	\$40,129.28	\$109,069.72
Alpena County	\$579,001.64	\$159,844.67	\$419,156.97
Arenac County	\$276,266.70	\$111,874.72	\$164,391.98
Bay County	\$1,046,774.01	\$593,149.49	\$453,624.52
Clare County	\$909,517.24	\$155,516.42	\$754,000.82
Gladwin County	\$739,236.18	\$75,917.90	\$663,318.28
Huron County	\$286,376.41	\$79,435.60	\$206,940.81
Iosco	\$189,425.91	\$168,107.94	\$21,317.97
Isabella County	\$1,518,690.57	\$233,306.88	\$1,285,383.69

The MIDC’s website includes the total funding awarded for every system. Click on the spreadsheet image to review the totals.

In August 2019 the Commission authorized an independent study to review the appropriate amount of the local share pursuant to amendments in the MIDC Act. That study will begin in 2020 and a report will be submitted regarding the recommendations in 2021. MCL §780.993(6).

The MIDC Act specifically provides that the funding unit can be reimbursed for the costs of developing and implementing the plan upon

approval, separate from the grant award. MCL §780.993(2). The MIDC distributed \$1,464,933.64 under this provision to local systems.

Reporting by Systems

Program Compliance and Data Collection

Prior to the MIDC Act, few local systems collected data on indigent defense. Historically, these data had not been required by any statewide body, and courts tended to maintain only information relevant to their payment systems.

In the last year, almost every system in the state has implemented data collection processes to gather critical data elements related to the MIDC minimum standards. Local systems are now collecting and reporting information quarterly for compliance with each standard. These data

New Data Collected from Every Court System

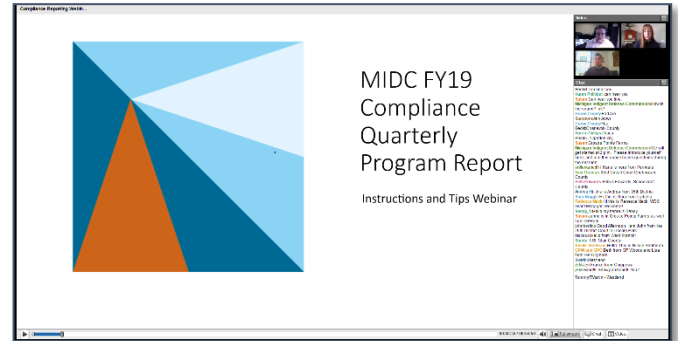
- ✓ Number of arraignments conducted
- ✓ Presence of counsel at each arraignment
- ✓ Number of guilty pleas submitted by mail or at the counter
- ✓ Percentage of new filings represented by assigned counsel/public defender offices
- ✓ Number of cases assigned to every attorney in each system
- ✓ Number of appointed cases in which investigators or experts were utilized

points offer insight into the landscape of indigent defense in every local system and allow for analysis in terms of similarities and differences between systems and change within a system over time.

Local systems have developed data collection procedures that make sense for their community. Because current case management systems were not historically designed to collect information on indigent defense, many

local systems have had to develop workaround solutions for the collection of these data, and they have made major strides throughout 2019 to this end.

In addition to hosting multiple webinars to assist funding units with the reporting requirements, MIDC staff created illustrated instructions and checklists which



were updated periodically to respond to frequently asked questions. In the upcoming year, the MIDC will continue working with local systems to submit accurate and consistent quarterly data, identify case management systems that may benefit from revisions, and start to assess patterns in indigent defense across the state.

Financial Accountability

Each system is required to provide a quarterly report on the expenses incurred for implementing the plan for indigent defense delivery. The contracts signed with the system provide due dates for reporting that occur approximately 30 days after the financial quarter ends. The

Commission developed a form to detail the total system costs and identify the source of funding: the local share, MIDC dollars, or other sources when applicable. Tracking

Department of Licensing and Regulatory Affairs Michigan Indigent Defense Commission FINANCIAL STATUS REPORT									
1. Name and Address of Grantee	2. Funding Unit(s)	3. Grant Number	4. Grant/Contract Period From _____ To _____						
5. Current Report Period From _____ To _____		6. Final Report YES _____ NO _____		7. Total Grant Amount State Grant _____ Local Share _____					
Contracts									
8. Cost Categories	Salaries Fees	Contract Attorneys	Experts Investigators	Construction	Other	Equipment	Travel Training	Supplies Services	Total
a. Expenditures this Report Period	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
b. Local Share	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
c. State Grant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
d. Total Expenditures to date	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
e. Local Share Expenditures to date	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
f. State Grant Expenditures to date	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
9. State Grant Advancements									
a. Received this reporting period	\$0.00								
b. Received to date	\$0.00								
10. Remarks	11. Certification: I certify that to the best of my knowledge and belief this report is correct and complete and that all expenditures are for the purposes set forth in the approved compliance plan and consistent with the grant contract and attachments.					12. MIDC Approval			
authorizing signature _____ date _____ position _____ email/phone contact _____						Grant Manager's Signature _____ Date _____ State Office Admin. Signature _____ Date _____			

the local share spending is critical to comply with the statutory requirement for using MIDC funds.

Each financial status report (FSR) submitted by the system is supported by documentation for the expenses to be eligible for reimbursement. Expenses identified on the FSR generally fall into the following

categories: **Attorneys and other staff, Experts and Investigators, Training for Assigned Counsel, and other supplies and resources for indigent defense.** The specific

budget categories are detailed in the table with funding approved in each category. The

Indigent Defense Budget Category	Approved Funding
Contractual/attorneys	81.3 million
Personnel	17.1 million
Fringe Benefits	8.9 million
Expert witnesses	5.9 million
Construction including meeting space	3.3 million
Supplies/services	3.1 million
Investigators	2.3 million
Equipment	2.4 million
Training and Travel	1.4 million
Other contracts for indigent defense systems	1.2 million

approved funding includes the MIDC award (\$86.7 million), the local share (\$37.9 million), and outside funding provided by a few local systems (\$2.6 million) to operate their indigent defense program.

At the end of each fiscal year, all systems are required to submit the **balance of unspent funds** distributed for indigent defense. That balance is used to offset the distribution for the following grant year.

The MIDC staff will begin working with the **Office of Internal Audit Services** (OIAS) in the next reporting year to improve MIDC's internal processes for assessing financial compliance by local funding units as well as conducting audits of funding units.

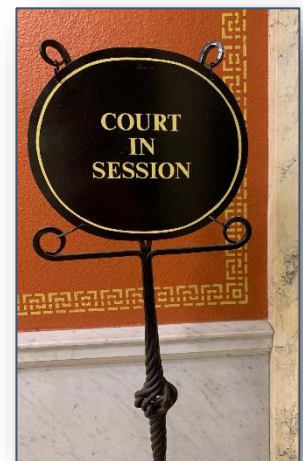
Evaluation of Compliance

Rubric Approved by Commission

The primary method of collecting information about compliance is from the programmatic and financial documentation submitted by the systems themselves. In addition, the MIDC staff meets with the local system to assess compliance through a rubric approved by the Commission and completed by the MIDC's Regional Manager and Grant Manager. The rubric assigns a score to assess compliance; the goal is to determine where additional support may be needed to fully meet the objectives of the MIDC's standards. The score is communicated to the system and information about compliance progress is provided to the Commission during business meetings. The Commission distinguishes between major issues of noncompliance that frustrate the implementation of justice and minor technical reporting infractions.

Court Watching by MIDC Regional Team

The final component for evaluating compliance is through court watching. Regional Managers observed criminal docket proceedings in every trial court during the reporting year and provide information about compliance with the standards through an online survey-style data collection system that is updated in real time. Private space for confidential attorney-client meetings is documented as well as counsel's presence during arraignments and all critical proceedings.



Impact of Implementation

The funding distributed to the local systems for compliance with the standards revealed significant improvements in indigent defense delivery, even in the first year of compliance. These improvements signal the receipt of much needed critical resources to support the fundamental constitutional right to counsel

Standard 1 – Education and Training of Defense Counsel

The first standard proposed and approved by the MIDC was a new requirement of continuing legal education for attorneys accepting adult criminal case assignments in Michigan. Until this standard was in place, Michigan was trailing behind and remains one of only four states in the Country that does not require all attorneys to complete training on a regular basis.

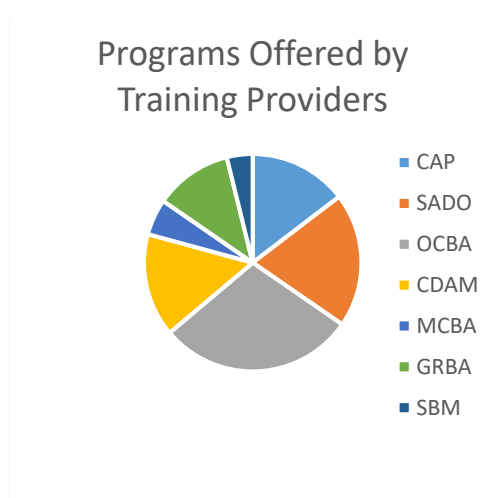
With this standard, attorneys accepting assignments must annually complete at least 12 hours of training relevant to representing indigent

The MIDC granted a total of
\$1,446,527.54
 to systems for their attorneys to register for and attend training events during the reporting year.

defendants; new criminal defense attorneys are required to complete at least 16 hours of hands-on skills training in order to perfect trial skills including motion practice, cross-examination, and closing arguments.

More than 2,000 attorneys were identified by systems in their compliance plans for 2019. Unlike most other states, training for

Michigan attorneys is paid by the State at no cost to defense counsel. Every system included a plan for training the attorneys that they identified and provided a cost analysis for that training. Many systems used a registration-based model for training and opted to send their attorneys to an approved vendor such as the Criminal Defense Attorneys of Michigan (CDAM). Training was also offered in-house and online to attorneys as well. In many instances, attorneys tracked their own training and sent verification of completion to the MIDC via email; other systems including larger bar associations included funding to track training for their attorneys and provided a report to the



MIDC at the end of the calendar year. In this first year of required training, the MIDC recognized training for events that occurred between October 1, 2018 and December 31, 2019. **The MIDC received 1,977 individual certificates of completion of attendance** from attorneys

The Criminal Defense Attorneys of Michigan offered nearly 200 hours of qualifying training for assigned counsel.

attending among approximately 140 programs offered during the year, including events such as the statewide conferences hosted by CDAM. In addition to annual training for experienced lawyers, CDAM also provided many skills training courses such as the “Evidence Boot Camp” series, and the popular “Trial College” with options for an expanded (4 day) or abbreviated (2 ½ day) program.

MIDC Skills Training

The Commission received \$198,230 in grant funding for a unique trial skills program from the Edward Byrne Memorial Justice Assistance Grant Program. With this funding, the MIDC contracted with a vendor to create and pilot a course designed to simulate components of a



criminal trial: voir dire, opening statement, cross-examination, direct examination, and closing arguments.

Keeley Blanchard of Greenville, Michigan, served as the Program Manager and selected locations for the training events in Western

Michigan, Mid-Michigan, and Northern Michigan Counties which were identified in the grant application as having fewer trial opportunities for attorneys to gain critical experience for representing defendants at trial.

Experienced attorneys were selected to serve as trainers along with Ms. Blanchard, and by the end of the calendar year **approximately 90 trainees - attorneys accepting assigned cases in rural areas of Michigan - received a combined total of over 1700 hours of training.**

Evaluations were distributed in the middle of and at the conclusion of each session. Over 200 evaluations were collected, tabulated, and analyzed. The overall rating revealed a **score of 9.1 out of 10** in answering "How valuable was the program, on a scale of 1-10?"

Standard 2 – Initial Interview

The MIDC standard addresses the timing and setting of the initial interview with an assigned client. Counsel is required to meet with a client held in custody in a local jail or detention facility within three business days from the time the attorney is appointed. The system is required to provide confidential space in both the courthouse and local jail in order to facilitate private attorney-client meetings to the extent reasonably possible.

Prior to the implementation of this standard, there was no requirement in Michigan for an attorney to meet with their client within any particular time frame, and many systems did not have private space for meetings in either the courthouse, the jail, or either place. Initial interviews are a critical opportunity for clients to provide attorneys with important information about themselves, ask questions of their attorneys and gain information about the proceedings they are facing. Information gathered at initial meetings may be used at bond hearings, to initiate necessary investigations of the pending charges and to identify reasons or mechanisms for diverting a client from criminal prosecution into a treatment or community-based program.



At the end of 2019, **88% of systems** reported having confidential meeting space for attorneys to meet with their **in-custody clients** in both the courthouse and jail; and **96% of systems** reported having confidential space in the courthouse for **attorneys to meet with clients who were not in custody** on hearing dates. Many courthouses were able to create space without costly construction projects, opting for booth-style additions installed to offer a private setting for these meetings.

Standard 3 – Investigation and Experts

The constitutional right to the effective assistance of counsel often requires an attorney to conduct an investigation to defend against the charges or consult with someone in specialized areas beyond the lawyer’s expertise. The historical lack of resources dedicated to indigent defense, especially the right to a reasonable investigation of criminal charges, is reflected in the necessary establishment of prosecutorial units to investigate wrongful convictions at the state and

local level.

The MIDC standard describes counsel’s obligations and allows each system to have dedicated funding for indigent defendants to use for investigations and expert witnesses. Over \$8 million was specifically designated for this purpose in 2019,

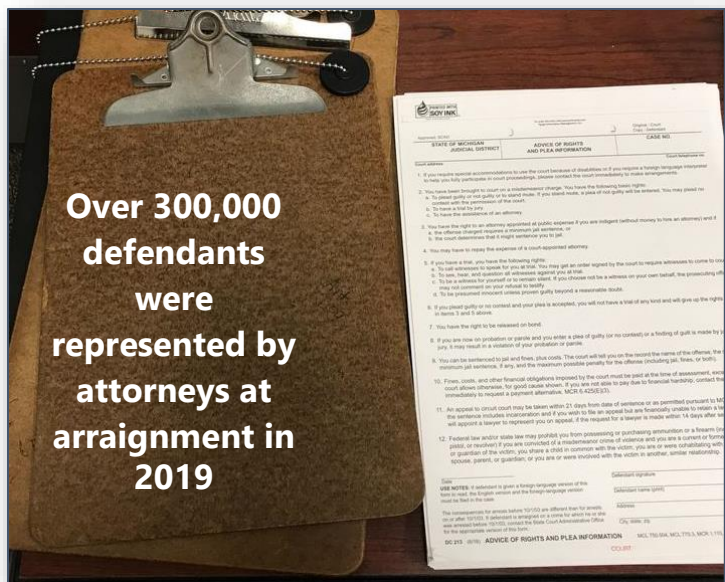
“[C]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.”

--Strickland v. Washington, 466 U.S. 668 (1984)

and by the end of the reporting year a process for attorneys to request experts and investigators had been established in almost every trial court system.

Standard 4 – Counsel at First Appearance and Other Critical Stages

MIDC Standard 4 presented the most significant system change in nearly every trial court in Michigan and accounts for more than half of the grant funds awarded in 2019. Appearing for the first time in court without an attorney was the reality for indigent defendants in Michigan prior to this standard being approved and implemented. With this standard and funding in place, counsel is now present at arraignments and all other critical stages of the proceedings. Most systems have attorneys on standby to answer questions and assist with paperwork and explaining the court process. More often than not, attorneys have been able to advocate for bond at the arraignment. There has been an increased use of personal recognizance bonds consistent with national reform. The majority of systems report improvements to the overall efficiency of the arraignment docket.



System Reform beyond the First Standards

The first year of compliance implementation produced many positive changes to the criminal legal system for indigent defendants. In addition to implementing the first four standards, many systems created plans that incorporated the next standards for indigent defense including independence from the judiciary, manageable caseloads for assigned counsel, a process to qualify and review appointed attorneys, and adequate compensation for attorneys providing public defense. These next standards were approved by the MIDC and remain pending with the Department of Licensing and Regulatory Affairs, but funding units were free to choose any model of delivering indigent defense that best suited their local system.



MIDC's First Annual
Leadership Conference
February 2019

New Defender Offices and Managed Assigned Counsel Systems

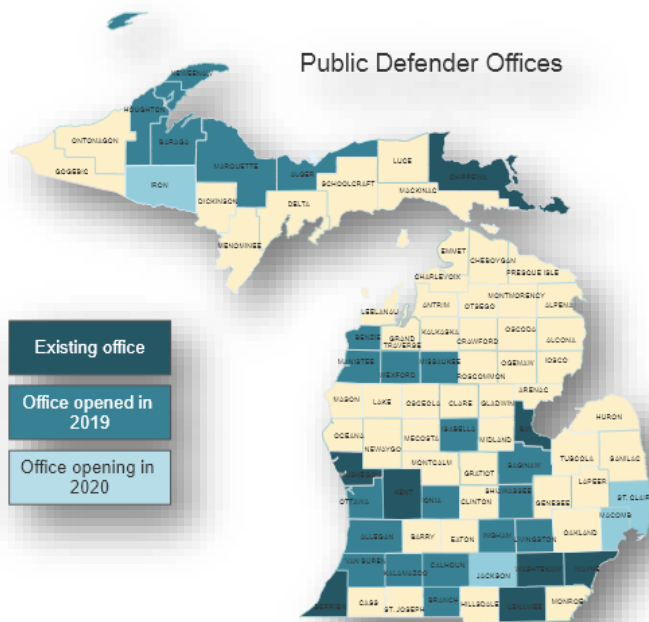
The most complete system changing model involved opening a public defender office, with **15 new public defender offices covering 20 counties opening in 2019**. Public defender offices provide full time salaried employees and a dedicated staff to represent adults charged

with crimes locally. Typically this model incorporates all of the MIDC's Standards and offers many aspects of holistic representation.

For systems that wanted to incorporate independence from the judiciary but maintain a traditional roster of attorneys paid as contractors, a Managed Assigned Counsel System

allowed an incremental approach to system change in anticipation of implementing pending standards. **More than 40 systems introduced a managed assigned counsel system model for services in 2019**.

These system-changing models were extraordinary. To celebrate this achievement, the MIDC hosted Michigan's **first annual leadership conference in February of 2019** and welcomed more than 50 new public defender office chiefs, deputies, and new managed assigned counsel administrators for a day-long learning session. These new



leaders in Michigan met and made connections with their peers from across the State to discover innovative ideas and best practices. Most importantly, this group began to create a **community of defenders in Michigan** to ensure that indigent defendants receive the best representation possible when charged with crimes even if they cannot afford to hire a lawyer themselves. The MIDC plans to host this annual event and expand the conversations further in 2020.



Social Worker Defender Program

The Social Worker Defender Program

(SWDP) is a best practice incubated in the Genesee County Court. The project is funded by the Bureau of Justice Assistance and aims to (1) develop and implement a model in which a licensed clinical social worker partners with public defenders to represent indigent clients, (2) evaluate the effectiveness of the model, and (3) create a tool to facilitate the replication of the model, both within Michigan as well as nationally. The primary goal of the model is to **mitigate jail and prison sentences** for adult criminal defendants by developing appropriate individualized community options for the judges' consideration, thereby increasing advocacy for clients, facilitating collaboration between the criminal justice system and local social service providers, and **decreasing reliance on incarceration**. The project launched in the Genesee County

Court in the fall of 2018 and will continue through the end of March 2020.

The Urban Institute is conducting an evaluation of the pilot program and will be releasing a final report in the fall of 2020. Early results

suggest that the program has been beneficial to judges, attorneys, and clients alike.

For attorneys and clients, the involvement of the social worker can increase trust between attorneys and clients while also opening up unexplored areas of concern.

"I've found the Social Worker Mitigation Reports very useful. They give me a fuller picture of the person in front of me."

-Genesee County Judge when asked about the involvement of the social worker in a case.

The complete evaluation from the Urban

Institute will offer further guidance on the benefits of social workers in public defense and the circumstances in which a social worker can be most useful. Under the grant, the MIDC will also be creating an instructional tool to allow for replication in public defender systems that are interested in utilizing social workers as part of the public defense team.

"My client's face lit up. I could see he was thinking, 'this is something different... and so maybe something different might happen.'"

-Genesee County attorney reflecting on introducing the social worker to his client as part of the defense team.

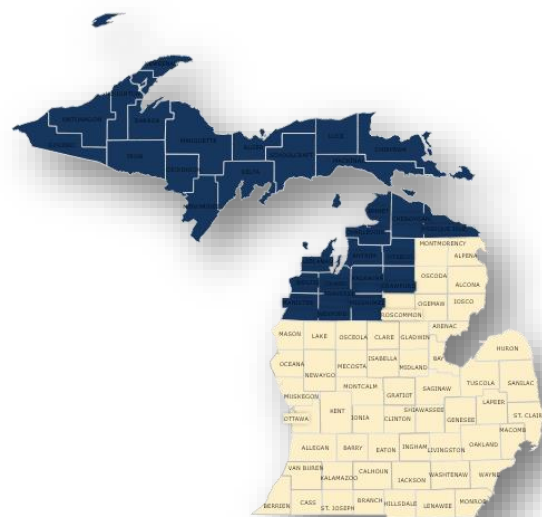
Community Transformation

Implementation of the standards began to improve to indigent defense statewide. The impact regionally and at the county level was also realized through funding and support for the local programs and approved compliance plans. The MIDC distributed \$86.7 million to 125 programs covering all 83 counties and every trial court in Michigan. Individual plans were required to be in place within 6 months of receiving funds. The MIDC remained flexible during significant system reform. Highlights by region are described below.

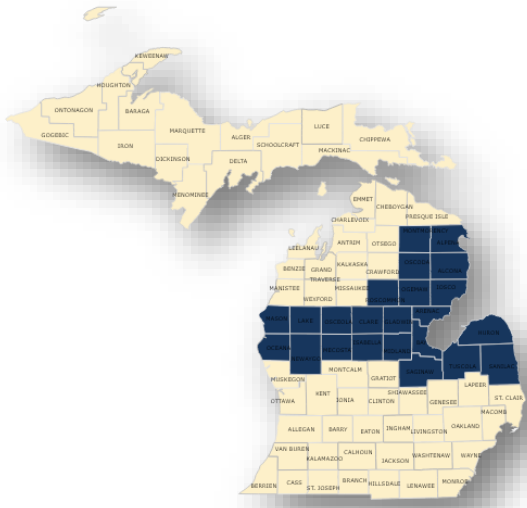
Northern Michigan

\$7,520,211.87 in state funding distributed for 24 compliance plans

- New **regional public defender offices** were launched covering Benzie/Manistee Counties, Wexford/Missaukee Counties, Houghton/Baraga/Keweenaw Counties and **new County public defender offices** in Marquette and Alger County;
- Nearly all public defender offices are **fully staffed** and are operating independently after a transition period to a Public Defender model;
- Several systems have **utilized expert and investigator dollars** resulting in dismissals/reduction of charges;
- Emmet County was one of the first systems to install a **“Whisper Room” to accomplish confidential attorney client meetings** for incarcerated defendants within the courthouse where courthouse space was limited. The Whisper Room has proven to be an adequate solution and is working well within the District Courtroom to ensure confidentiality.



Mid-Michigan



\$11,098,976.28 in state funding distributed for 23 compliance plans

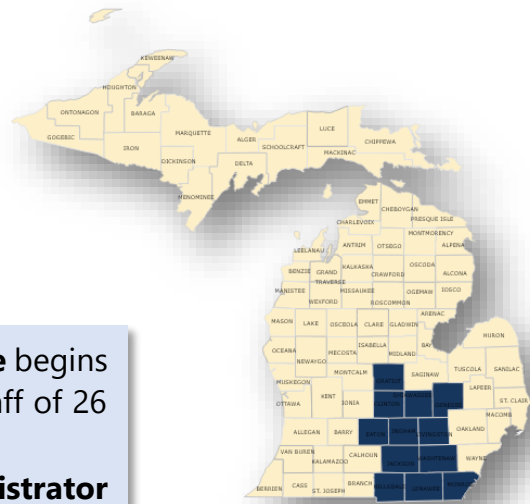
- **Isabella County** established a PD office as a county department and handles all cases except conflict and multi-defendant cases. The office is housed in a building owned by the county in a medical complex and **offers full public transportation availability for clients;**
- An **8-county alliance** has established a creative approach to management of low-population systems with limited access to attorneys. These counties (**Clare, Gladwin, Mecosta, Osceola, Mason, Lake, Newaygo and Oceana**) have joined together to hire the same firm to manage each of their plans;
- Some systems, such as Ogemaw and Iosco, continued their flat fee contracts, **with added compensation for Standard 4.** These systems are both exploring system change to hourly in the coming year. Some with previous hourly arrangements, such as Huron, Tuscola, Sanilac and Clare/Gladwin, **increased their rates and fully implemented attorney training to improve the quality of services;**
- Nearly all the systems in mid-Michigan have implemented programs with independence from the judiciary. **No system in mid-Michigan remains fully controlled by the judiciary as of the end of the calendar year.**



Saginaw County purchased a large law office building nearly adjacent to the courthouse and updated it to meet the needs of the new non-profit agency defender office.

South Central Michigan

\$13,356,202.28 in state funding distributed for 13 compliance plans

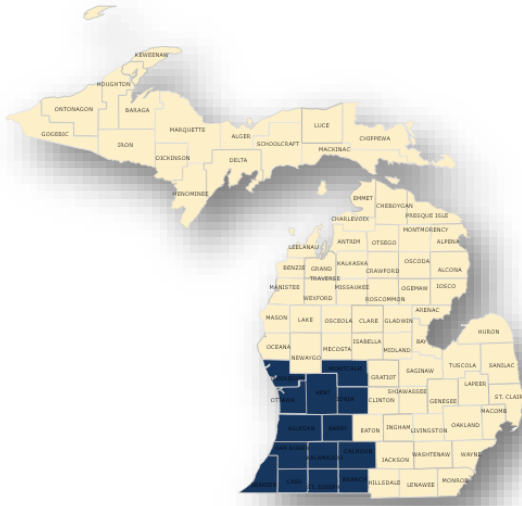


- New **Ingham County Public Defender Office** begins taking cases in March 2019, after hiring a staff of 26 attorneys;
- **Jackson hires its Public Defender Administrator** and the Jackson County Commission approves a plan to open up a countywide public defender office for the next grant cycle;
- Throughout 2019, the new **Shiawassee public defender office succeeded in winning 7 out of 8 trials**, attributing much of the success to its hands-on skill training supported by MIDC's Rural Trial Simulation Training;
- **Genesee began a counsel at first appearance program at its 6 district courts**, led by newly contracted attorney team leaders; new attorney meeting space and office hub is finalized for the county's 70+ indigent defenders in its downtown Flint district court;
- **Livingston** hires its first Chief Public Defender and by the end of the year with a team of 8 attorneys, began taking its first appointments, including **all arraignments, misdemeanors and some non-capital felonies**.

"One of the things about the indigent community is that as a constituency, they don't have a voice...They don't have very many people standing in the wings at the State Capitol. We're moving toward a model that gives them a seat at the table. Our loyalty will be entirely for our clients and it will be undivided."

-Russel Church, Ingham County
Public Defender
"In Defense of the Defenseless"
Lansing City Pulse
March 7, 2019

Western Michigan



\$14,919,118.27 in state funding distributed for 19 compliance plans

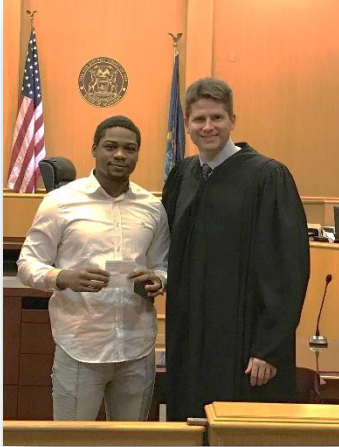
“Our justice system works best...when both sides have experienced, capable attorneys who have the necessary resources and when that happens you end up with the fairest and just results so you don’t have people falling through the cracks. It means you’re going to have fair representation.”

-David Makled, Calhoun Public Defender, *Calhoun County creates Public Defender Office so everyone can have experienced, capable defense*
Second Wave Media, November

- Prior to 2019, there were three Public Defender Offices in Western Michigan: Berrien, Kent County Office of the Defender, and Muskegon. In 2019, **additional public defender offices opened in Allegan/ VanBuren, Branch, Calhoun, Ionia, Kalamazoo, and Ottawa Counties;**
- Allegan and VanBuren counties joined forces to create a **regional Public Defender's Office**. A Chief, Deputy, and 2 staff attorneys were hired. This is a hybrid system that has attorney rosters for each county. This enabled local attorneys who historically provided indigent defense services to continue to provide these services while also incorporating new talent and ideas;
- Several systems also incorporated **Managed Assigned Counsel Administrators including Barry, Montcalm, and St. Joseph Counties**. This is the first time the judges in these systems did not hire and manage the court appointed attorneys in these systems;
- **Kalamazoo County contracted with a nonprofit agency** to provide indigent defense services for its system. This office hired 24 attorneys and a support staff that includes paralegals, secretaries, an office manager, and private investigators;
- Kent County's districts court indigent defense services greatly increased. Prior to 2019, Wyoming only spent approximately \$7,000 per year on attorney fees and only provided approximately 300 people accused of crimes with court appointed attorneys. **In the first 3 months of representation, Kent County Office of the Defender had already represented over 300 clients for this court.**

Lapeer, Macomb, Oakland, St. Clair Counties

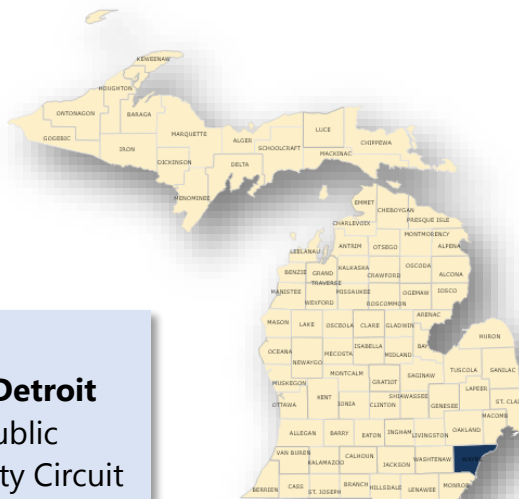
\$16,527,031.75 in state funding distributed for 21 compliance plans



- **Macomb County** received an innovation grant award to **evaluate the feasibility of creating a public defender office**, efforts to implement those findings began at the end of the calendar year.
- Oakland County coordinates **training for attorneys and counsel at first appearance** for the every court in the county.
- Many District Courts have created programs to improve outcomes for defendants including **50th District Court in Pontiac**, one of the busiest courthouses in Oakland County. The court constructed two private meeting spaces for in-custody defendants and improved four private meeting spaces for out-of-custody defendants. Outreach efforts resulted in a **flyer to let people know that anyone with an outstanding warrant would have an attorney present at court** to assist them if they turned themselves in. This flyer went viral on social media. Since April 8, 2019, the Court has resolved 879 bench warrants. The court has also dismissed 1695 cases since implementation of the MIDC program.
- The **44th District Court in Royal Oak** created a special program to assist defendants charged with driving while their license was suspended. By the end of 2019 **approximately 800 participants have obtained/restored their licenses**.

Wayne County

\$23,300,639.40 in state funding
awarded for 25 compliance plans



- **Neighborhood Defender Service (NDS) of Detroit** began operations to provide holistic-based public defender services in a quarter of Wayne County Circuit Court cases. The NDS team includes attorneys, social workers, advocates, administrators, and investigators.
- In 2019, 19 district courts and 4 municipal courts fully implemented their compliance plans for Standards 1-4. **Many district courts shared resources for on-call attorneys to ensure that an attorney would be available for arraignments during all court hours.** Many district courts who receive pleas by mail from MDOC inmates are connecting the defendants with attorneys via Polycom before processing the pleas. This allows the defendant to consult with an attorney **to ensure that they fully understand the ramifications of the plea**, allowing them to make informed decisions.
- The **Wayne County Criminal Advocacy Program (CAP) continues to provide timely and relevant training to all Wayne County defense attorneys.** The seminars included training on implicit bias and jury selection, body worn cameras and Fourth Amendment issues, immigration and collateral consequences, specialty courts, effective use of preliminary examinations and district court practice, and sentencing advocacy tips for better outcomes.

“This is groundbreaking in Michigan and nationally...”

-Chantá Parker, NDS Detroit
Managing Director
A Big Boost for Indigent Defense in Wayne County – Neighborhood Defender Service Opens Their Detroit Office, The Craig Fahle Show, November 21, 2019

Leadership Valued in Michigan and Nationwide

On April 18, 2019 Governor Gretchen Whitmer signed an Executive Order forming **Michigan's Joint Task Force on Jail and Pretrial**

Roughly half of the people held in Michigan's jails on any given day have not been convicted of a crime and are constitutionally presumed innocent as they await trial.

Incarceration. The task force was co-chaired by Lt. Governor Garlin Gilchrest II and Michigan Supreme Court Chief Justice Bridget M. McCormack and included stakeholders from the criminal legal system. Okemos-based criminal defense attorney **Takura Nyamfukudza was appointed to represent the MIDC on this task force.** This initiative recognized that Michigan's jail population had tripled in recent years even though crimes in Michigan are at a 50-year low. The MIDC

hosted a **roundtable discussion led by PEW Charitable Trusts for criminal defense attorneys to discuss necessary changes** to the

pretrial process which

was attended by the Lt. Governor Gilchrest. Recommendations for policy and budgetary changes to increase justice-system efficiency and effectiveness will be made in 2020.



Participatory Defense

With the creation of new public defender offices and interest across the state in reform of indigent defense, Michigan is uniquely positioned to develop collaborations between public defenders and community members that can empower people who face criminal charges and their family members, improve the practice of public defender offices, and create long-standing partnerships that will create sustained change over time.

In 2019, the MIDC partnered with Silicon Valley DeBug (SVD), a California-based non-profit agency that has developed and helped implemented a model called **participatory defense** in more than 25 sites across the country. The model primarily operates through the existence of participatory defense hubs where family members and community members guide each other through the challenges of criminal legal system involvement.

Participatory defense simultaneously supports the people moving through the system – people who face criminal charges, their family members, and their communities – while also strengthening their defenses by developing relationships between communities and public defenders.

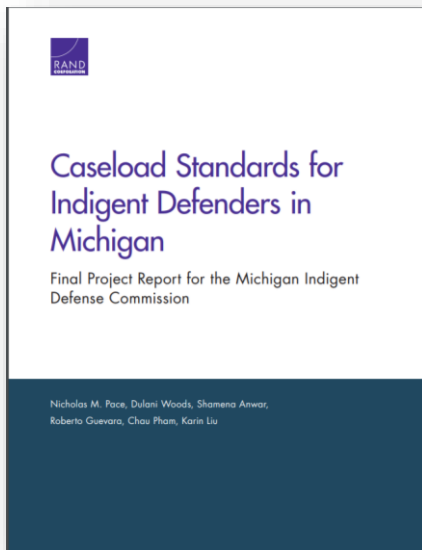
In 2019, SVD received a grant from the Public Welfare Foundation to develop and implement participatory defense hubs in two sites in Michigan. Through this project, the MIDC aims to create a replicable model for other community-based organizations and public defender offices in Michigan, with the hopes of empowering local communities, improving criminal defense representation, and ultimately shifting the tide of mass incarceration.

Reform Continues in 2020

At the end of 2019, the next standards for indigent defense remained pending approval, including Standard 6 – Indigent Defender Workloads.

The Standard sets forth maximum caseloads consistent with recommendations by the American Council

of Chief Defenders, but also identified the need for a Michigan-specific weighted caseload study. To this end, the MIDC contracted with the RAND Corporation to help **determine maximum caseload standards for defense counsel representing clients in the trial level courts of the state of Michigan.** At the



end of 2019, the final recommendations

were distributed to the Commission. **The report from RAND is available on the MIDC's website.**

Planning for 2020

Almost as soon as systems implemented plans in 2019, planning for 2020 was underway. The MIDC created a simplified compliance plan application and budget request form, and by the end of 2019 had approved 120 of the 124 plans submitted by trial court systems. The Commission secured over \$80 million to fund these plans, which will be combined with the unspent balance from 2019 to fully fund these plans for a 2nd year of compliance with the MIDC's standards.

Conclusion and Recommendations

The MIDC and the State of Michigan have made tremendous progress over the last five years towards ensuring the right to counsel for indigent defendants. To maintain Michigan's leadership in nationwide indigent defense reform, the Commission recommends as follows:

- The state must identify indigent defense as an integral component of a constitutional public safety system and continue to meet its obligation to **fully fund the local systems plans for compliance** with the first four indigent defense standards and upon approval, the next standards for indigent defense approved by the MIDC;
- The state should dedicate a restricted funding source that will at least in part, provide reliable and continuous annual funding to support indigent defense.
- The state must authorize **adequate operational funding** to the MIDC to enable it to meet its authority to provide statewide compliance and fiscal monitoring to ensure the integrity of indigent defense expenditures;
- A **statewide system to collect data** must be developed and implemented in public defender offices and assigned counsel systems, which will enable the MIDC to assess the impact of standards implementation and identify best practices;

- The MIDC will provide support to local systems for implementing the MIDC's new **grant management system** to enable efficient and accurate reporting of grant funds;
- The MIDC will continue to support local systems in identifying opportunities for **institutionalizing best practices** for indigent defense across multiple systems;
- The MIDC will work with all stakeholders in the criminal justice system to identify and address any necessary **statutory and court rule revisions** as implementation of the standards occurs;
- The MIDC will engage stakeholders in the criminal justice system as it develops standards for **determining whether a defendant is partially indigent** and establishing **standards for MIDC-funded training and to measure the quality of the training.**



MICHIGAN INDIGENT
DEFENSE COMMISSION

To: Michigan Indigent Defense Commission Members
From: Marcela Westrate
Date: June 9, 2020
Re: Appropriations Update

Overview of the Appropriations Process

The State's annual appropriations process begins in February when the Governor delivers the administration's Executive Recommendation to the House and Senate Appropriations Committees. Typically, the subcommittees hold hearings from March – May, with the departments coming to testify at the Chair's request. Revenue estimating conferences are held in January and May to determine how much money is available to be appropriated. Following the May conference, the Governor's office works with the House and Senate to set target spending levels for the budgets. Once the spending levels are determined, legislators start working on the appropriations for each department. The House and Senate approve identical versions of the budget. The budget process usually concludes between July and September for the new fiscal year beginning October 1, when the Governor signs the budget bills passed by the House and Senate. Last year, legislation was signed that created a July 1 deadline for finalized appropriations for the following fiscal year.

Appropriations Process for FYs 2020 and 2021

Because of the COVID-19 pandemic, this year's appropriations process has not been typical. Governor Whitmer released her Executive Recommendation on February 6, 2020. The subcommittee process began, and the Michigan Indigent Defense Commission was working with subcommittee chairs in the House and Senate to set a time to present about the Commission's work. Before these hearings were able to occur, Michigan's Stay Home Stay Safe order went into effect. We were able to hold meetings electronically with the subcommittee chairs but did not provide information for the full committees.

The May revenue estimating conference was held on May 15 (see article from Gongwer News Service). For the current fiscal year, there is \$2 billion less in the State's General Fund (the source of all funding for the MIDC). The State will have \$1.9 billion less in the General Fund for the 2020-2021 fiscal year that begins October 1. The State's first priority will be addressing the shortfall for the current fiscal year. At a press conference May 28, State Budget Office Director Chris Kolb indicated that the State needs federal funding to cover this shortfall. LARA has been working with the State Budget Office to identify funds that MIDC will not spend that could be included as part of spending reductions. To date, no plans for the reduction have been publicly announced.

State officials continue to review financial information to determine the amount of funds available to be appropriated for the 2020-2021. The State's tax deadline moved from April 15 to July 15, part of the review will be the amount of taxes that are paid in July. Another revenue estimating

conference is expected to be held in late August or early September. This conference will give a better idea of what revenue looks like as Michigan businesses begin opening. Appropriations Chairs in the House and Senate have called on Governor Whitmer to release a plan to reduce spending for the next fiscal year. Committees have resumed meeting, but the focus has predominantly been on COVID-19 related issues across state government.

Advocacy

We continue to update talking points for the MIDC's budget to include new issues that have arisen in our local systems because of the COVID-19 crisis. MIDC regularly meets with LARA staff to discuss the MIDC's budget and the status of LARA's appropriations requests. We also meet with Marlon Brown, who is the Director of LARA's Office of Policy and Legislative Affairs. Contact between MIDC staff and the legislature is generally coordinated through Mr. Brown's office in an effort to work in partnership with LARA and provide opportunities for ongoing education of the larger department with respect to MIDC's work and budgetary needs. It is notable that scheduling meeting with legislators through OPLA has resulted in limitations on the legislators with whom MIDC staff meets.

Under the LARA's direction, MIDC staff is not currently meeting with legislators directly. We plan to engage Commissioners and other allies to work with legislature to advocate for MIDC funding. Ms. Khogali and Chair Puerner submitted a letter to LARA Executive Director Adam Sandoval reiterating the Commission's purpose. The Commission began in part because of a class action lawsuit when indigent defendants were being denied their constitutional rights. Should funding levels change drastically, the State runs the risk of being subject to new lawsuits for the denial of these rights.

This appropriations cycle is truly different than one that we have seen in a while, and it has been difficult to navigate. We plan to convene the Commission's legislative committee as needed through the process.



Friday, May 15, 2020

State Looking At Stunning \$6.2B Shortfall In Current, Next Fiscal Year

The scope and breadth of the revenue reductions estimated in Michigan following plummeting revenues due to the global COVID-19 pandemic were staggering even for the officials charged with coming to an agreement at Friday's Consensus Revenue Estimating Conference.

And staggering they are. The effect on the state's economy as many businesses were ordered to close for much of the last eight weeks is significant.

The House Fiscal Agency, the Senate Fiscal Agency and the Department of Treasury **agreed Friday** the state is looking at \$2 billion less in the General Fund and \$1.2 billion less in the School Aid Fund compared to January estimates for the current fiscal year while having \$1.9 billion less to work with for General Fund spending and \$1.1 billion less for schools during the 2020-21 fiscal year beginning October 1.

With \$700 million left on the balance sheet, the state is looking at a \$2.5 billion hole in the current fiscal year.

"They are grim," **Governor Gretchen Whitmer** said Friday of the budget numbers. "They are grim for every state in the nation."

Ms. Whitmer continues to advocate for federal assistance to states to help with budget shortfalls (see separate story).

Treasurer Rachel Eubanks called the numbers "difficult to accept" while SFA Director Chris Harkins said, "These are not numbers that I enjoy seeing and they are not numbers I wish we would be seeing."

"But I think they accurately reflect where we are," he said.

HFA Director Mary Ann Cleary called the numbers staggering.

In total, for the current and upcoming fiscal year, the state is looking at a \$6.2 billion shortfall, though that is slightly offset by the \$700 million on the balance sheet. This comes even as the state will see increases need and spending for public assistance program, including Medicaid and cash assistance, officials said.

Officials said in the current fiscal year, due to an increase in the Medicaid match rate, the state will ^{66/125}save \$138.76 million in Department of Health and Human Services spending but in the 2020-21 fiscal year will spent \$569.4 million more. The state is also expecting a doubling in the Family Independence Program providing cash assistance with 13,000 cases in 2021.

Another 310,000 people are expected to enroll in traditional Medicaid while another 185,000 are expected to enroll in the Healthy Michigan plan, officials said.

Combined revenues to the General and School Aid funds in the 2019-20 fiscal year are down 12 percent, officials agreed Friday, with 3.5 percent growth projected in the 2020-21 fiscal year, which is a combined \$3.05 billion less than January consensus numbers.

Looking forward further to the 2021-22 fiscal year, combined revenues are projected to increase another 7.2 percent, though again, that is \$2.09 billion less than what was projected in January.

Net General Fund revenue was estimated in January to be \$11 billion for the current fiscal year, and it is now estimated to fall to \$9.03 billion. Numbers agreed upon by officials Friday do not show the General Fund reaching that \$11 billion level in the coming years, projecting a balance of \$10.17 billion in the 2022-23 fiscal year and \$10.38 billion in the 2023-24 fiscal year.

Net School Aid Fund revenue was projected to be \$13.9 billion for the current fiscal year in January and is now estimated to be \$12.68 billion. It is projected to get back to pre-COVID levels in the 2021-22 fiscal year, when it is estimated to reach \$13.9 billion again, though that is a \$719,700 reduction from the January consensus as well.

The officials also agreed a third revenue estimating conference is needed in late August or early September to get a better idea on revenues with the income tax deadline pushed to July 15.

To: Michigan Indigent Defense Commission

From: Marla R. McCowan
Director of Training, Outreach & Support

Re: FY20 Compliance Planning Updates; FY21 Submissions and Recommendations

Date: June 10, 2020

I. FY20 Compliance Planning, Funding Distribution Update

A. Overview

As of the April 21, 2020 meeting, all 124 systems have their FY20 plans and cost analyses approved (see Appendix A).

Fiscal Year	Total System Cost	Local Share	MIDC Grant Funding
2019	\$124,685,576.92	\$37,925,642.17	\$86,759,934.75
2020	\$155,948,764.37	\$38,523,883.90	\$117,424,880.47

B. Contracts distributed

As of this date, 123 contracts have been distributed to systems and 123 have been returned for processing and the initial distribution of payment by the Department of Licensing and Regulatory Affairs. Systems reported their unexpended funds in FY19 to offset the initial 50% distribution of MIDC grant funding pursuant to MCL §780.993(15). The distributions are proceeding as described in the contracts with the systems. The District Court for the City of Inkster (22nd District Court) is in the process of finalizing their FY19 contractual obligations including reporting their unspent balance. The contract for FY20 should be finalized in the near future and distributions will begin shortly thereafter.

Awaiting Finalization	Total System Cost	Local Share	MIDC Grant Funding
D 22 Inkster	\$157,602.50	\$45,990.00	\$111,612.50

1. System reporting - progress towards compliance

The second quarterly reporting for fiscal year 2020 was to be filed by systems on April 30, 2020 but due to system closures for the COVID-19 pandemic, many systems are still submitting the reporting documents. The reporting is composed of:

- A **program report**, detailing the progress towards compliance with the approved plan. All program reports are submitted online through a survey-type of system for ease in submitting, receiving, and organizing the information to be provided;
- A **financial status report**, in the format approved by the Commission, to provide information regarding the spending on indigent defense between January 1, 2020 – March 31, 2020;
- A **budget adjustment request**, if applicable, to accommodate necessary changes to the line items without exceeding the approved total grant award; and
- A **list of attorneys** providing services in the system, including full name and P#, to track progress on continuing legal education.

The MIDC Staff previously conducted webinars to answer the most common questions about reporting. The webinars were well-attended and a recording of one of the sessions is available on our website, along with a handout and links to a number of resources for reporting on our grants page, at www.michiganidc.gov/grants.

2. FY20 Q2 Budget adjustments

- a) The Grant Manager **approved budget adjustment requests** pursuant to the process set forth in the Guide for Reporting Compliance with Standards and Distribution of Grant Funds published by the MIDC in August 2018 (revised December 2018).

These adjustments did not impact the total system cost:

- Bay County
- Benzie/Manistee Counties
- D 23 Taylor
- D 28 Southgate
- D 47 Farmington
- D 51 Waterford
- D 59-1 Grandville

- Gogebic County
- Iron County
- Lake County
- Livingston County
- Menominee County
- Monroe County
- Montcalm County
- Muskegon County
- Oakland County
- Oceana County
- Osceola County
- Presque Isle County
- Saginaw County
- Sanilac County
- St. Clair County
- St. Joseph County

b) The Grant Manager **denied** the budget adjustment requests made by the following system:

- D 50 Pontiac (denial based on out of quarter expense)
- Kalamazoo County (letter in shared drive)

The documentation for these budget adjustment requests can be found in the shared drive of materials.

3. Planning Reimbursement

a) D 36 City of Detroit – \$237,014.62 **Action Requested**

Senior staff recommends approving the planning costs involving the project manager's time (\$5,132.40) plus the pilot project for Standard 4 (\$231,882.22).

Statutory authority, MCL §780.993(2) provides:

An indigent criminal defense system may submit to the MIDC an estimate of the cost of developing the plan and cost analysis for implementing the plan under subsection (3) to the MIDC for approval. If approved, the MIDC shall award the indigent criminal defense system a grant to pay the approved costs for developing the plan and cost analysis under subsection (3).

II. FY21 Compliance Planning, Submissions, and Recommendations

A. Overview

Statutory authority (**as amended** December 2018), MCL §780.993:

(3) No later than 180 days after a standard is approved by the department, each indigent criminal defense system shall submit a plan to the MIDC for the provision of indigent criminal defense services in a manner as determined by the MIDC and shall submit an annual plan for the following state fiscal year on or before **October 1** of each year. A plan submitted under this subsection must specifically address how the minimum standards established by the MIDC under this act will be met and must include a cost analysis **for meeting those minimum standards**. The standards to be addressed in the annual plan are those approved not less than **180** days before the annual plan submission date. The cost analysis must include a statement of the funds in excess of the local share, if any, necessary to allow its system to comply with the MIDC's minimum standards.

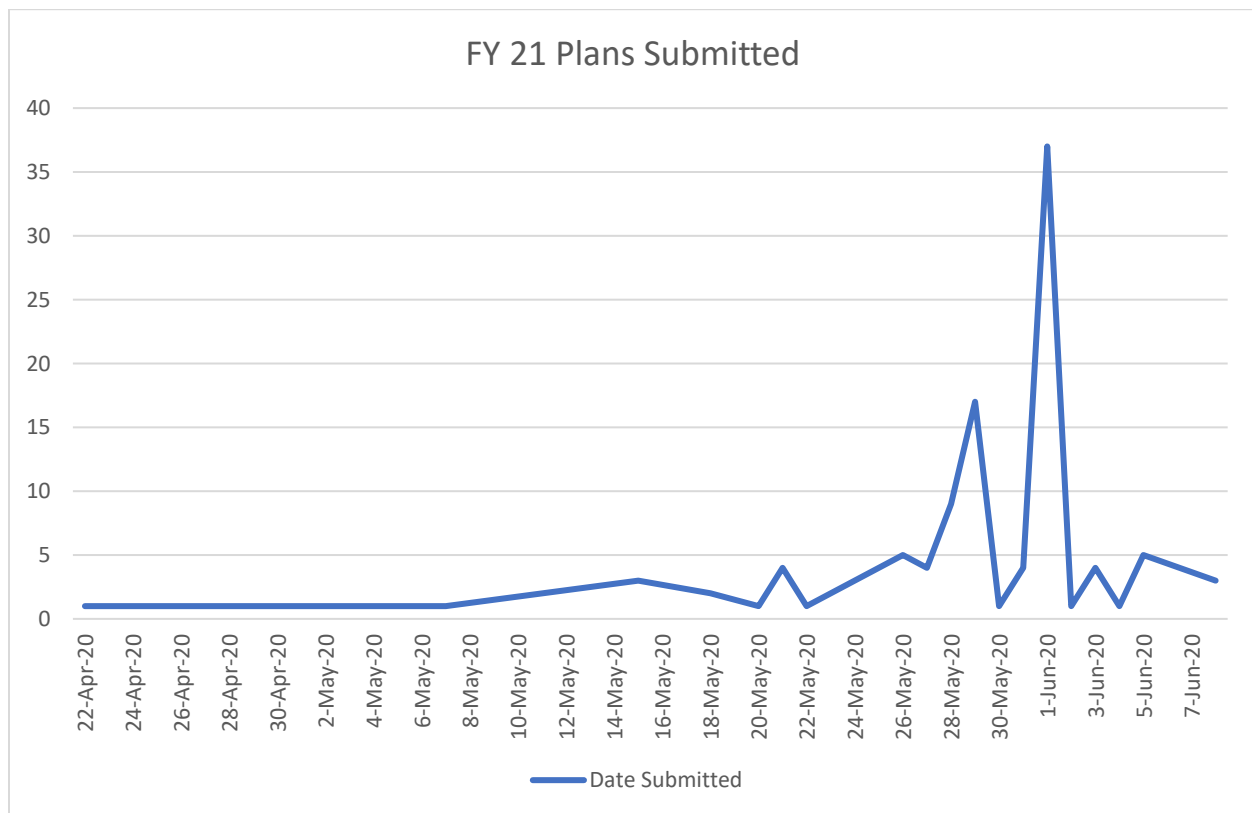
(4) The MIDC shall approve or disapprove **all or any portion of** a plan or cost analysis, or both a plan and cost analysis, submitted under subsection (3), and shall do so within 90 calendar days of the submission of the plan and cost analysis. If the MIDC disapproves **any part of** the plan, the cost analysis, or both the plan and the cost analysis, the indigent criminal defense system shall consult with the MIDC and, **for any disapproved portion**, submit a new plan, a new cost analysis, or both within **60** calendar days of the mailing date of the official notification of the MIDC's disapproval. If after 3 submissions a compromise is not reached, the dispute must be resolved as provided in section 15. **All approved provisions of an indigent criminal defense system's plan and cost analysis must not be delayed by any disapproved portion and must proceed as provided in this act. The MIDC shall not approve a cost analysis or portion of a cost analysis unless it is reasonably and directly related to an indigent defense function.**

B. FY21 Submissions

At the March 27, 2020 Special Commission Meeting, the MIDC extended the deadline for systems to submit their FY21 Compliance Plans and Cost Analyses until May 31, 2020 due to the COVID-19 pandemic (the previous deadline was April 30, 2020). The due date fell on a Sunday; as a result most plans were filed on Monday June 1, 2020 (the first plan was submitted April 22, 2020 and plans continue to be filed).

Staff hosted webinars for compliance planning and made a recording of a webinar available on our website along with the forms and relevant documents for compliance planning.

Note: Half of the MIDC's staff is furloughed on Mondays and the other half is furloughed on Fridays. These furlough days began in mid-May 2020 and will continue until the end of July 2020; **the date reflects the final submission by the system *not* date that the files were uploaded for review.** A submission chart shows the pattern of receipt:



The MIDC staff **expects to receive a total of 120 compliance plans** and cost analyses from funding units for FY21. In FY19 there were 125 total plans and costs for 134 trial court funding units in Michigan and in FY20 there were 124 plans and costs submitted (Kent County submitted a combined plan for 17th Circuit Court and 63rd District Court in FY20; in FY19 these plans and costs were submitted separately). For FY21, the reduced number of plans again reflects coordination of services by systems:

Washtenaw County is submitting a combined plan for all of the funding units in the County (22nd District Court, the 14th District Courts and the 15th District Court; D15 submitted a separate plan in the prior two fiscal years)

Several of the District Courts in Kent County submitted a single plan reflecting standards implementation and costs for D59-1 (Grandville); D59-2 (Walker); D62A (Wyoming); D62B (Kentwood).

The MIDC has received submissions from the following systems as indicated by date:

April 22, 2020

1. Luce

April 23, 2020

2. Barry

April 29, 2020

3. Benzie

May 1, 2020

4. Roscommon

May 5, 2020

5. Emmet

May 7, 2020

6. D48 Bloomfield

May 15, 2020

7. D50 Pontiac
8. Clinton
9. Gratiot

May 18, 2020

10. Gogebic
11. Mecosta

May 20, 2020

12. D47 Farmington Hills

May 21, 2020

13. D24 Allen Park
14. GP Park
15. Houghton

16. Ionia
- May 22, 2020**
17. D61 Grand Rapids
- May 26, 2020**
18. D51 Waterford
19. Monroe
20. Ontonagon
21. Otsego
22. Wexford
- May 27, 2020**
23. Chippewa
24. D18 Westland
25. D28 Southgate
26. D43-3 Madison Hts.
- May 28, 2020**
27. Antrim
28. Bay
29. Calhoun
30. D32a Harper Woods
31. Hillsdale
32. Huron
33. Newaygo
34. Osceola
35. Ottawa
- May 29, 2020**
36. Allegan/Van Buren
37. Berrien
38. Branch
39. Cass
40. D17 Redford
41. D23 Taylor
42. D43-2 Ferndale
43. D45 Oak Park
44. Genesee
45. GP City
46. Isabella
47. Kalkaska
48. Kent County (C 17 and D 63)
49. Lapeer
50. Montcalm
51. Presque Isle

52. St. Clair County

May 30, 2020

53. Muskegon

May 31, 2020

54. Alcona

55. D31 Hamtramck

56. D41B Clinton Twp

57. Sanilac

June 1, 2020

58. Alpena

59. Arenac

60. Cheboygan

61. Clare/Gladwin

62. D16 Livonia

63. D19 Dearborn

64. D25 Lincoln Park

65. D29 Wayne

66. D33 Woodhaven

67. D36 Detroit

68. D37 Warren/Centerline

69. D40 St. Clair Shores

70. D41-a-1 Sterling Heights

71. D43-1 Hazel Park (CA only)

72. D 44 Royal Oak

73. D46 Southfield

74. D62A Wyoming (combined for D59-1, 59-2, 62A, 62B)

75. Delta

76. Eaton

77. Grand Traverse

78. Ingham

79. Kalamazoo

80. Lenawee

81. Livingston

82. Lake

83. Macomb

84. Mason

85. Montmorency

86. Oakland

87. Oceana

88. Oscoda

89. Ogemaw – (CA only)

- 90. Schoolcraft
- 91. Shiawassee
- 92. St. Joseph
- 93. Washtenaw (includes D15)
- 94. Wayne County

June 2, 2020

- 95. D34 Romulus

June 3, 2020

- 96. Charlevoix
- 97. D21 Garden City
- 98. D35 Plymouth
- 99. Marquette

June 4, 2020

- 100. Iron County

June 5, 2020

- 101. D22 Inkster
- 102. D27 Wyandotte
- 103. Mackinac County
- 104. Dickinson County
- 105. Jackson (revised)

June 8, 2020

- 106. Crawford County
- 107. Grosse Pointe Farms/Shores
- 108. Leelanau County

The MIDC has **not received final submissions of plans and costs** from the following systems:

1. Alger County
2. D 20 – Dearborn Heights
3. D 30 – Highland Park
4. D 38 – Eastpointe
5. D 39 – Roseville and Fraser
6. D 41-a-2 Shelby Township
7. Grosse Pointe Woods Municipal Court
8. Iosco County (*see below*)
9. Menominee County
10. Midland County (*see below*)
11. Saginaw County (*see below*)
12. Tuscola County

1. Extension of Time for Filing Plans – Action Requested

In addition to the COVID-19 pandemic, the following systems have been the subject of a State of Emergency declared by Governor Whitmer due to extensive flooding in May 2020. It is the senior staff's recommendation that the deadline for submitting plans and costs be extended for these systems until **June 30, 2020**:

- Iosco County
- Midland County
- Saginaw County

2. Review of FY21 Compliance Plans and Cost Analyses

a. Committee Review

Increase to Direct Costs – Reviews any plan in which there is an increase to direct indigent defense services. (Committee members: William Swor (Chair), Joe Haveman, Jeffrey Collins)

This committee will meet via Zoom on Thursday June 11, 2020 at 3:30 p.m. to discuss the following plans:

- Chippewa County
- Luce County

- D24 - Allen Park
- D28 - Southgate
- D48 - Bloomfield Hills

b. Substantive Review of Submissions – Action Requested

Note: the compliance plans and cost analyses submitted by the systems to be reviewed are contained in a single bookmarked .pdf document in the shared drive of materials. The page number indicates the first page where the system’s submission appears in the combined document.

Senior staff recommends, pursuant to MCL 780.993(4), as follows:

Staff Recommendation:

Disapprove Compliance Plan, Disapprove Cost Analysis

1. Barry County plans at p.1

FY20 Total system cost: \$808,676.18

FY21 Total system cost: \$971,501.41

System is requesting to move from a managed assigned counsel system model to a hybrid model for a public defender office with the addition of 1 FTE attorney and significant additional monthly based costs for the current contract system. System has not submitted a feasibility study for a system change model and the increased costs do not correlate with current spending.

Staff Recommendation:

Approve Compliance Plan, Disapprove Cost Analysis

2. D 50 – City of Pontiac plans at p.28

FY20 Total system cost: \$1,052,015.00

FY21 Total system cost: \$708,708.84

System will maintain managed assigned counsel system in FY21; decrease overall is due to county assuming costs for jail CAFA; additional information is requested for increase in court officer time and increase in attorney

hours which does not appear warranted based on system review, current projected spending and caseloads.

3. Roscommon County plans at p.58

FY20 Total system cost: \$652,085.25

FY21 Total system cost: \$652,085.25

System will maintain the current managed assigned counsel system and roster of attorneys paid hourly for services. System must provide additional information to justify attorney fee request, and need FY 20 2nd quarter report to accurately reflect spending or explain lack of spending.

Staff Recommendation:

Approve Compliance Plan, Approve Cost Analysis

4. Antrim County plans at p.74

FY20 Total system cost: \$258,432.00

FY21 Total system cost: \$255,891.40

System will maintain managed assigned counsel system and generally maintain all costs which is consistent with current spending trends; some reduction for FY21 as follows: FY20 included equipment costs that are not included in the FY21 cost analysis. FY20 also included funding for ICHAT reports. That request is not included in the FY21 cost analysis.

5. Benzie/Manistee Counties plans at p.95

FY20 Total system cost: \$813,561.86

FY21 Total system cost: \$766,610.24

This system opened a felony public defender office in FY19 which was maintained in FY20; current plan seeks to expand the defender caseload to handle all misdemeanor cases in addition to felony cases. Result is an overall budget reduction for FY21 through reduced contract attorney hours and eliminated conflict attorney administrator position.

6. Chippewa County *plans at p.123*

FY20 Total system cost: \$543,811.98

FY21 Total system cost: \$513,994.30

System will maintain established public defender office with modest increase to salaries and increase to conflict attorney rates from \$75 to \$100/110/120/hr with an overall reduction to total system cost due to reduced amount asked for experts and investigators based on history of use and SCAO caseload report, reduced training plan, and reduced supplies and services.

7. Emmet County *plans at p.141*

FY20 Total system cost: \$472,652.00

FY21 Total system cost: \$446,636.00

Contract-based system will continue with costs maintained for attorneys accepting assignments; Cost savings due to Attorney Administrator position being eliminated. The system could not fill the position in FY20 and never purchased the equipment associated with the position.

8. Gogebic County *plans at p.155*

FY20 Total system cost: \$362,648.65

FY21 Total system cost: \$298,453.76

Contract-based system will be maintained with reductions due to elimination of contract administrator position pending Standard 5, some reduced attorney time, and construction completed. Overall reduced total system cost; one new item involves a portal for a law library for all adult indigent defendants including in custody pro per defendants (\$1176).

9. Kankaska County *plans at p.169*

FY20 Total system cost: \$450,726.07

FY21 Total system cost: \$446,774.89

Managed assigned counsel system will be maintained for FY21; carryover spending on a construction project

approved in FY20 for confidential meeting space (\$95k) will need to be carried over to FY21 due to COVID-19 pandemic; slight decrease in personnel costs.

10. Luce County *plans at p.192*

FY20 Total system cost: \$246,026.00

FY21 Total system cost: \$266,954.00

System will continue to maintain the managed assigned counsel system; increase is due to system need for a third attorney to the roster due to an increase in multi-defendant drug cases and consistent with tracked spending. This results in a \$20,000.00 increase to the contractual attorney amount and increase in training for that attorney.

11. Ontonagon County *plans at p.208*

FY20 Total system cost: \$167,291.00

FY21 Total system cost: \$162,911.00

Traditional assigned counsel system will be maintained with hourly rates paid to a roster of attorneys; reduction from equipment purchased in FY20.

12. Otsego County *plans at p.220*

FY20 Total system cost: \$417,017.00

FY21 Total system cost: \$352,745.09

Contract defender system will now include an administrator. The system will contract with a local attorney to fulfill Counsel Administrator duties and will discontinue the contract they currently have with the County to provide these services. The Counsel Administrator will be responsible for reviewing and approving attorney invoices and for reviewing and approving requests for experts and investigators (full description attached to plan); administrative position for grant-related duties added for 10 hours per month. Cost analysis is an overall reduction as follows: reduced hourly rate for corrections personnel, a reduction in the amount for contracting with a Counsel Administrator, and a slight reduction in training and travel.

13. Hillsdale County *plans at p.241*

FY20 Total system cost: \$495,314.02

FY21 Total system cost: \$407,313.37

This system will continue to have a managed assigned counsel administrator; pay for attorneys is consistent with tracked spending; some equipment needed for COVID-related purchases(\$3500); reductions are for a decrease in ancillary spending (pay rate for jail officer rate reduced from 22.4 to 20.78, savings of \$3,369.60), elimination of jail and court meeting space construction, savings of \$65,800, slight reduction of 300 conflict attorney hours, savings of \$3000, reduction of office supplies, savings of \$2,000

14. D 18 Westland *plans at p.256*

FY20 Total system cost: \$447,220.00

FY21 Total system cost: \$447,280.00

Traditional assigned counsel system with an essentially flat request from prior year; system is on track to spend consistently with FY20 award.

15. D 24 Allen Park *plans at p.271*

FY20 Total system cost: \$187,102.50

FY21 Total system cost: \$183,718.00

Traditional assigned counsel system seeking to increase the rate from \$75/hour to \$100/hour to be competitive while reducing the number of hours from 2,133 to 1,600 hours based on tracked use; system also reduced court officer's time by three hours per week (from 15 to 12).

16. D 28 Southgate *plans at p.284*

FY20 Total system cost: \$188,193.69

FY21 Total system cost: \$186,265.04

Traditional assigned counsel system; minor increase to ancillary spending (not new, added 4 hours/week to court officer and COLA for court officer and clerk); increased

attorney rate from \$90 to \$100/hr but reduced overall attorney hours based on FY20 tracked spending.

17. D 31 Hamtramck *plans at p.298*

FY20 Total system cost: \$211,422.00

FY21 Total system cost: \$189,082.71

Traditional assigned counsel model with an essentially flat request to attorney services and a reduction of ancillary spending (Reduced ancillary salary and benefits by reducing the court officer's hours by 1,170 hours).

18. Grosse Point Park *plans at p.315*

FY20 Total system cost: \$41,530.00

FY21 Total system cost: \$41,110.00

Small municipality with traditional assigned counsel system has an essentially flat request with less attorneys which reduced training expenses.

19. Grosse Point City/Municipal *plans at p.330*

FY20 Total system cost: \$31,590.00

FY21 Total system cost: \$23,750.00

Small municipality with an assigned counsel/contract model seeking to reduce attorney hours based on tracked spending.

20. D 47 Farmington *plans at p.346*

FY20 Total system cost: \$203,339.69

FY21 Total system cost: \$187,828.22

Assigned counsel ("house counsel" system) will be maintained with an essentially flat request; the decrease in the overall total reflects a shift in spending from the local system to the county that oversees the arraignment program.

21. D 48 Bloomfield *plans at p.364*

FY20 Total system cost: \$452,714.00

FY21 Total system cost: \$531,500.00

Managed assigned counsel (and “house counsel”) system began in FY20 and will continue in FY21; a significant increase in overall costs is due to the system seeking an increase in the hourly rates paid to attorneys (from \$50/hr to \$100/hr) and the docket rates (from \$250/half day to \$300/half day) to match neighboring systems. Some decrease in line items reflect a shift in spending from the local system to the county that oversees the arraignment program.

22. Mecosta County *plans at p.380*

FY20 Total system cost: \$454,239.00

FY21 Total system cost: \$454,799.00

Event based contract system will be maintained with a managed assigned counsel administrator. Essentially a flat request with few changes: \$2,500 reduction in arraignment fees based on minor caseload reduction; minor increase (\$560) in training cost due to rate increase; \$2,500 transcript fees added that was not in FY 20 budget (but was in budget adjustment).

Summary of Recommended Approval Totals:

Funding Unit	Total System Cost	Local Share	MIDC Funding	13.2
Antrim County	\$255,891.40	\$80,078.05	\$175,813.35	
Benzie/Manistee Counties	\$766,610.24	\$282,873.44	\$483,736.80	
Chippewa County	\$513,994.30	\$224,154.43	\$289,839.87	
D 18 - Westland	\$447,280.00	\$62,895.64	\$384,384.36	
D 24 - Allen Park	\$183,718.00	\$14,817.09	\$168,900.91	
D 28 - Southgate	\$186,265.04	\$4,682.30	\$181,582.74	
D 31 - Hamtramck	\$189,082.71	\$14,472.68	\$174,610.04	
D 47 Farmington/Hills	\$187,828.22	\$21,889.50	\$165,938.72	
D 48 Bloomfield	\$531,500.00	\$17,446.43	\$514,053.57	
Emmet County	\$446,636.00	\$162,669.81	\$283,966.19	
Grosse Pte City Municipal	\$23,750.00	\$3,229.43	\$20,520.57	
Grosse Pointe Park	\$41,110.00	\$10,175.28	\$30,934.72	
Gogebic County	\$298,453.76	\$104,295.23	\$194,158.53	\$863.60
Hillsdale County	\$407,313.37	\$113,644.44	\$293,668.93	
Kalkaska County	\$446,774.89	\$39,813.90	\$406,961.00	
Luce County	\$266,954.00	\$30,146.04	\$236,807.96	
Mecosta County	\$454,799.00	\$166,746.65	\$288,052.35	
Ontonagon County	\$162,911.00	\$27,747.04	\$135,163.96	
Otsego County	\$352,745.09	\$82,192.54	\$270,552.55	
Total	\$6,163,617.02	\$1,463,969.92	\$4,699,647.12	\$863.60

MIDC FY20 Approved Compliance Plan and Cost Analysis		Total system cost	FY 20 local share	MIDC grant
Lapeer, Macomb, Oakland, St. Clair				
D 37 - Warren and Centerline	1	\$1,427,025.82	\$122,807.75	\$1,304,218.07
D 38 - Eastpointe	1	\$770,886.95	\$53,008.41	\$717,878.54
D 39 - Roseville and Fraser	1	\$1,031,602.97	\$90,249.75	\$941,353.22
D 40 St Clair Shores	1	\$551,999.08	\$7,079.46	\$544,919.62
D 41-a-1 Sterling Heights	1	\$483,457.33	\$0.00	\$483,457.33
D 41-a-2 Shelby Twp	1	\$500,232.87	\$0.00	\$500,232.87
D 41b - Mt Cl, Harris., Clinton	1	\$479,800.00	\$43,619.16	\$436,180.84
D 43-1 Hazel Park	1	\$1,226,624.07	\$18,374.88	\$1,208,249.19
D 43-2 Ferndale	1	\$642,131.00	\$15,308.54	\$626,822.46
D 43-3 Madison Heights	1	\$626,516.25	\$1,781.37	\$624,734.88
D 44 - Royal Oak	1	\$861,833.36	\$22,692.49	\$839,140.87
D 45 - Oak Park	1	\$515,430.00	\$42,169.76	\$473,260.24
D 46 - Southfield	1	\$600,500.00	\$82,782.00	\$517,718.00
D 47 Farmington/Hills	1	\$203,339.69	\$21,910.94	\$181,428.75
D 48 Bloomfield	1	\$452,714.00	\$17,463.52	\$435,250.48
D 50 Pontiac	1	\$1,052,015.00	\$18,022.97	\$1,033,992.03
D 51 - Waterford	1	\$351,679.06	\$31,807.20	\$319,871.86
Lapeer County	1	\$1,001,776.00	\$109,844.99	\$891,931.01
Macomb C 16 & D 42-1, 42-2	1	\$7,071,336.20	\$2,242,139.23	\$3,620,490.20
Oakland C 6 & D 52-1, 2, 3, 4	1	\$6,564,397.00	\$1,868,990.68	\$4,153,895.00
St. Clair County	1	\$2,439,289.10	\$750,172.53	\$1,689,116.57
Mid- Michigan				
Alcona County	1	\$152,650.00	\$41,012.12	\$111,637.88
Alpena County	1	\$670,326.00	\$163,361.25	\$506,964.75
Arenac County	1	\$281,417.70	\$114,335.96	\$167,081.74
Bay County	1	\$1,143,261.00	\$606,198.78	\$537,062.22

Clare/Gladwin Counties	1	\$1,976,939.89	\$236,525.87	\$1,740,414.02
Huron County	1	\$541,000.67	\$81,183.18	\$459,817.49
Iosco County	1	\$194,264.04	\$171,806.31	\$22,457.73
Isabella County	1	\$1,632,191.16	\$238,439.63	\$1,393,751.83
Lake County	1	\$306,795.00	\$77,894.39	\$228,900.61
Mason County	1	\$626,149.00	\$156,855.56	\$469,293.44
Mecosta County	1	\$454,239.00	\$166,909.97	\$287,329.03
Midland County	1	\$543,605.00	\$259,598.83	\$284,006.17
Montmorency County	1	\$287,425.00	\$16,915.12	\$270,509.88
Newaygo County	1	\$834,012.00	\$201,412.11	\$632,599.89
Oceana County	1	\$546,200.00	\$92,953.97	\$453,246.03
Ogemaw County	1	\$583,209.00	\$147,849.67	\$435,359.33
Osceola County	1	\$368,270.00	\$70,307.47	\$297,962.53
Oscoda County	1	\$254,609.00	\$54,337.70	\$200,271.30
Roscommon County	1	\$652,085.25	\$203,666.89	\$448,418.36
Saginaw County	1	\$3,907,993.00	\$917,671.17	\$2,990,321.83
Sanilac County	1	\$463,107.11	\$65,683.90	\$397,423.21
Tuscola County	1	\$1,121,837.00	\$253,956.78	\$867,880.22

Northern Michigan

Alger County	1	\$446,941.78	\$53,463.93	\$393,477.85
Antrim County	1	\$258,432.00	\$80,156.48	\$178,275.52
Baraga/Houghton/Keweenaw Counties	1	\$649,626.64	\$158,449.25	\$491,177.39
Benzie/Manistee Counties	1	\$813,561.86	\$283,150.50	\$530,411.36
Charlevoix County	1	\$513,540.00	\$168,476.70	\$345,063.30
Cheboygan County	1	\$380,071.56	\$144,514.89	\$235,556.67
Chippewa County	1	\$543,811.98	\$224,373.97	\$319,438.01
Crawford County	1	\$288,669.00	\$15,029.53	\$273,639.47
Delta County	1	\$399,133.51	\$109,591.10	\$289,542.41
Dickinson County	1	\$532,670.07	\$68,653.87	\$464,016.20
Emmet County	1	\$472,652.00	\$162,829.13	\$309,822.87

Gogebic County	1	\$362,648.65	\$104,379.38	\$258,251.27
Grand Traverse County	1	\$837,550.20	\$156,958.76	\$680,591.44
Iron County	1	\$445,694.95	\$73,071.29	\$372,623.66
Kalkaska County	1	\$450,726.07	\$39,852.89	\$410,873.18
Leelenau County	1	\$220,225.00	\$52,832.66	\$167,392.34
Luce County	1	\$246,026.00	\$30,175.57	\$215,850.43
Mackinac County	1	\$200,011.56	\$136,830.47	\$63,181.09
Marquette County	1	\$958,688.80	\$229,920.36	\$728,768.44
Menominee County	1	\$490,826.59	\$116,201.40	\$374,625.19
Ontonagon County	1	\$167,291.00	\$27,774.22	\$139,516.78
Otsego County	1	\$417,017.00	\$82,273.04	\$334,743.96
Presque Isle County	1	\$199,811.02	\$74,901.69	\$124,909.33
Schoolcraft County	1	\$233,227.70	\$36,314.19	\$196,913.51
Wexford/Missaukee Counties	1	\$989,164.36	\$146,902.28	\$842,262.08
South Central Michigan				
Clinton County	1	\$815,673.30	\$147,841.50	\$667,831.80
D 15 - Ann Arbor	1	\$393,529.96	\$206,506.85	\$187,023.11
Eaton County	1	\$2,132,500.68	\$445,328.32	\$1,687,172.36
Genesee County	1	\$4,825,360.66	\$1,335,598.66	\$3,489,762.00
Gratiot County	1	\$586,807.51	\$83,400.98	\$503,406.53
Hillsdale County	1	\$495,314.02	\$113,755.75	\$381,558.27
Ingham County	1	\$5,542,054.00	\$921,865.46	\$4,620,188.54
Jackson County	1	\$2,892,162.20	\$567,334.39	\$2,324,827.81
Lenawee County	1	\$1,314,689.11	\$214,815.46	\$1,099,873.65
Livingston County	1	\$2,554,318.27	\$936,856.16	\$1,617,462.11
Monroe County	1	\$863,639.00	\$215,996.63	\$647,642.37
Shiawassee County	1	\$945,865.40	\$106,081.56	\$839,783.84
Washtenaw County	1	\$6,529,871.55	\$2,441,932.97	\$4,087,938.58

Wayne County

D 16 - Livonia	1	\$504,623.01	\$17,590.52	\$487,032.49
D 17 - Redford	1	\$291,038.77	\$52,617.22	\$238,421.55
D 18 - Westland	1	\$447,220.00	\$62,957.24	\$384,262.76
D 19 - Dearborn	1	\$357,033.44	\$78,855.14	\$278,178.30
D 20 - Dearborn Heights	1	\$226,780.42	\$9,831.29	\$216,949.13
D 21 - Garden City	1	\$114,793.07	\$8,938.41	\$105,854.66
D 22 - Inkster	1	\$157,602.50	\$45,990.00	\$111,612.50
D 23 - Taylor	1	\$401,859.00	\$40,370.02	\$361,488.98
D 24 - Allen Park	1	\$187,102.50	\$14,831.60	\$172,270.90
D 25 - Lincoln Park	1	\$571,360.11	\$10,735.94	\$560,624.17
D 27 - Wyandotte	1	\$285,315.80	\$1,462.34	\$283,853.46
D 28 - Southgate	1	\$188,193.69	\$4,686.89	\$183,506.80
D 29 - Wayne	1	\$171,784.79	\$23,475.75	\$148,309.04
D 30 - Highland Park	1	\$167,781.34	\$13,797.00	\$153,984.34
D 31 - Hamtramck	1	\$211,422.00	\$14,486.85	\$196,935.15
D 32a - Harper Woods	1	\$189,771.90	\$12,660.80	\$177,111.10
D 33 - Trenton	1	\$297,822.70	\$76,756.97	\$221,065.73
D 34 - Romulus	1	\$561,179.00	\$55,315.75	\$505,863.25
D 35 - Plymouth	1	\$432,761.00	\$31,141.93	\$401,619.07
D 36 - Detroit	1	\$5,791,521.08	\$1,086,674.07	\$4,704,847.01
Wayne County Circuit Court	1	\$26,800,560.40	\$7,611,175.35	\$19,189,385.05
Grosse Pte City Municipal	1	\$31,590.00	\$3,232.59	\$28,357.41
Grosse Pointe Farms	1	\$58,853.00	\$15,015.22	\$43,837.78
Grosse Pointe Park	1	\$41,530.00	\$10,185.25	\$31,344.75
Grosse Pointe Woods	1	\$57,200.00	\$3,150.83	\$54,049.17

Western Michigan

Allegan/Van Buren Counties	1	\$3,112,882.00	\$540,903.72	\$2,571,978.28
Barry County	1	\$808,676.18	\$231,302.44	\$577,373.74
Berrien County	1	\$3,128,460.00	\$575,096.85	\$2,553,363.15

Branch County	1	\$663,985.60	\$154,707.29	\$509,278.31
Calhoun County	1	\$2,866,565.81	\$698,289.68	\$2,168,276.13
Cass County	1	\$457,136.00	\$254,342.07	\$202,793.93
D 59-1 - Grandville	1	\$82,698.81	\$2,826.17	\$79,872.64
D 59-2 - Walker	1	\$94,973.88	\$6,236.58	\$88,737.30
D 61 - Grand Rapids	1	\$502,130.00	\$177,124.86	\$325,005.14
D 62 a - Wyoming	1	\$358,250.00	\$7,161.15	\$351,088.85
D 62B - Kentwood	1	\$266,078.60	\$39,165.37	\$226,913.23
Ionia County	1	\$453,149.77	\$223,412.94	\$229,736.83
Kalamazoo County	1	\$4,709,000.00	\$1,176,108.31	\$3,532,891.69
Kent County C17/D63	1	\$6,769,498.13	\$2,449,097.29	\$4,320,400.84
Montcalm County	1	\$648,628.63	\$225,179.50	\$423,449.13
Muskegon County	1	\$2,362,268.20	\$676,864.47	\$1,685,403.73
Ottawa County	1	\$3,287,034.00	\$943,394.91	\$2,343,639.09
St. Joseph County	1	\$774,890.80	\$423,222.83	\$351,667.97
Total approved as of April 21, 2020	124	\$157,698,982.46	\$38,523,865.90	\$117,424,880.77

GRANT MANUAL



MICHIGAN INDIGENT
DEFENSE COMMISSION

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This Grant Manual is created for the convenience of stakeholders seeking information about compliance with the MIDC's standards and the contracts issued to indigent criminal defense systems pursuant to an approved plan and cost analysis. The Commission makes policy determinations regarding funding for the standards. The MIDC's staff serves as liaisons between stakeholders and the Commission and are responsible for bringing novel questions to the Commission for consideration and action. This manual is designed to capture decisions that the Commission has made through action on prior plans and costs for compliance with the standards. This manual will be revised regularly to reflect policy decisions by the Commission and made available on the Commission's public website. Notifications of updates will be communicated to local funding units.

The MIDC Act, in its entirety, is the primary document governing MIDC activities and should be referred to for full context of excerpted materials in this manual.

General Authority

The Michigan Indigent Defense Commission ("MIDC") Act is found at MCL §780.981 *et seq.*

Relevant Provisions of the MIDC Act for Standards, Compliance, and Reporting

The MIDC Establishes Standards for Indigent Defense

The MIDC is responsible for "[d]eveloping and overseeing the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that indigent criminal defense services providing effective assistance of counsel are consistently delivered to all indigent adults in this state consistent with the safeguards of the United States constitution, the state constitution of 1963, and this act." MCL §780.989(1)(a).

The MIDC Creates Rules and Procedures for Compliance Plans for Indigent Criminal Defense Systems

The MIDC has the authority and duty to establish “rules and procedures for indigent criminal defense systems to apply to the MIDC for grants to bring the system’s delivery of indigent criminal defense services into compliance with the minimum standards established by the MIDC.” MCL §780.989(1)(g).

Indigent Criminal Defense System Creates Compliance Plan

“No later than 180 days after a standard is approved by the department, each indigent criminal defense system shall submit a plan to the MIDC for the provision of indigent criminal defense services in a manner as determined by the MIDC and shall submit an annual plan for the following state fiscal year on or before **October 1** of each year. A plan submitted under this subsection must specifically address how the minimum standards established by the MIDC under this act will be met and must include a cost analysis for meeting those minimum standards. The standards to be addressed in the annual plan are those approved not less than 180 days before the annual plan submission date. The cost analysis must include a statement of the funds in excess of the local share, if any, necessary to allow its system to comply with the MIDC's minimum standards.” MCL §780.993(3) (emphasis added).

Local Share

The local share refers to “an indigent criminal defense system's average annual expenditure for indigent criminal defense services in the 3 fiscal years immediately preceding the creation of the MIDC under this act, excluding money reimbursed to the system by individuals determined to be partially indigent. Beginning on November 1, 2018, if the Consumer Price Index has increased since November 1 of the prior state fiscal year, the local share must be adjusted by that number or by 3%, whichever is less.” MCL §780.983(i).

“[A]n indigent criminal defense system shall maintain not less than its local share. If the MIDC determines that funding in excess of the

indigent criminal defense system's share is necessary in order to bring its system into compliance with the minimum standards established by the MIDC, that excess funding must be paid by this state.” MCL §780.993(7). The requirement for spending the local share is activated by the need to spend in excess of that total. The statute does not dictate the *order* in which the state dollars and local share be spent during the contract year. The local share can be contributed at any time during the contract year.

“An indigent criminal defense system must not be required to provide funds in excess of its local share. The MIDC shall provide grants to indigent criminal defense systems to assist in bringing the systems into compliance with minimum standards established by the MIDC.” MCL §780.993(8).

Approval of Compliance Plans

“The MIDC shall approve or disapprove all or any portion of a plan or cost analysis, or both a plan and cost analysis, submitted under subsection (3), and shall do so within **90 calendar days** of the submission of the plan and cost analysis. If the MIDC disapproves any part of the plan, the cost analysis, or both the plan and the cost analysis, the indigent criminal defense system shall consult with the MIDC and, for any disapproved portion, submit a new plan, a new cost analysis, or both within **60 calendar days** of the mailing date of the official notification of the MIDC's disapproval. If after 3 submissions a compromise is not reached, the dispute must be resolved as provided in section 15. All approved provisions of an indigent criminal defense system's plan and cost analysis must not be delayed by any disapproved portion and must proceed as provided in this act. The MIDC shall not approve a cost analysis or portion of a cost analysis unless it is reasonably and directly related to an indigent defense function.” MCL §780.993(4) (emphasis added).

Duty of Compliance with Approved Plan

“Within 180 days after receiving funds from the MIDC ... an indigent criminal defense system shall comply with the terms of the grant in bringing its system into compliance with the minimum standards established by the MIDC for effective assistance of counsel. The terms of a grant may allow an indigent criminal defense system to exceed 180 days for compliance with a specific item needed to meet minimum standards if necessity is demonstrated in the indigent criminal defense system's compliance plan. The MIDC has the authority to allow an indigent criminal defense system to exceed 180 days for implementation of items if an unforeseeable condition prohibits timely compliance.” MCL §780.993(11).

The MIDC Reviews Systems for Compliance

The MIDC will be “[i]nvestigating, auditing, and reviewing the operation of indigent criminal defense services to assure compliance with the commission's minimum standards, rules, and procedures.” MCL §780.989(1)(b).

Financial Reporting

“The MIDC shall ensure proper financial protocols in administering and overseeing funds utilized by indigent criminal defense systems, including, but not limited to, all of the following:

- a) Requiring documentation of expenditures.
- b) Requiring each indigent criminal defense system to hold all grant funds in a fund that is separate from other funds held by the indigent criminal defense system.
- c) Requiring each indigent criminal defense system to comply with the standards promulgated by the governmental accounting standards board.” MCL §780.993(14).

Unexpended Grant Funds

“If an indigent criminal defense system does not fully expend a grant toward its costs of compliance, its grant in the second succeeding fiscal year must be reduced by the amount equal to the unexpended funds.

Identified unexpended grant funds must be reported by indigent criminal defense systems on or before **October 31** of each year. Funds subject to extension under subsection (11) must be reported but not included in the reductions described in this subsection. Any grant money that is determined to have been used for a purpose outside of the compliance plan must be repaid to the MIDC, or if not repaid, must be deducted from future grant amounts.” MCL §780.993(15) (emphasis added).

Overspending on Services

“If an indigent criminal defense system expends funds in excess of its local share and the approved MIDC grant to meet unexpected needs in the provision of indigent criminal defense services, the MIDC shall recommend the inclusion of the funds in a subsequent year's grant if all expenditures were reasonably and directly related to indigent criminal defense functions.” MCL §780.993(16).

Compliance Planning by Indigent Defense Systems

Resources Available on the MIDC's Website

- The MIDC Standards
- White papers for MIDC Standards 1-4
- *Delivery System Reform Models: Planning Improvements in Public Defense* (MIDC, December 2016)
- *Position Paper on Attorney Fees after the Passage of the MIDC Act* (MIDC, Summer 2016)
- Department of Treasury correspondence regarding adult indigent criminal defense funds

Compliance Plan Components

Identification of System

All compliance plans will need to address the following general information:

- ✓ The authorizing official submitting the plan and signing the contract terms of the funding consistent with the approved plan

- ✓ The point(s) of contact for the submitted plan (phone, email, address)
- ✓ A local financial contact for the post award fiscal administration
- ✓ Trial court funding unit(s) and court(s) included in the plan
- ✓ The identification of stakeholders or committee members involved in the planning process
- ✓ Collaborative plans must list all systems and trial courts associated with the plan

Compliance with Approved Standards

The submitted plan will address each standard individually. A statement is required to identify and expand on the current or existing state of the system's process or work in subject the area of the standard. The submission will then need to highlight the changes or enhancements needed to achieve the standard, if any.

Cost Analysis

A cost analysis (budget) for the compliance plan must be submitted in the format approved by the MIDC. Reasonableness will be stressed and a list or guideline for permissible costs is included in this manual. To minimize rejections after official submission, systems should contact their MIDC Regional Manager, before submissions, to discuss compliance plan costs that pose situations not addressed in guidelines.

Local Share

The MIDC Act requires maintenance of a certain level of funding by the local system(s), defined as the local share. The calculation of the local share involves the capture of expenditures for adult indigent defense costs for the three fiscal years preceding enactment of Public Act 93 of 2013. The costs are then offset by the corresponding collections or payments for court appointed counsel services in the same time period on behalf of defendants made by either an individual or an agency.

Beginning in FY2019, all systems calculated and certified their local share. A certification of the local share calculation, acknowledged through local official authorization, was a requirement of the original

compliance plan and cost analysis. For FY2020, the local share was increased by 2.2% pursuant to MCL §780.983(i). The local share will be adjusted to 2.1% for FY2021. MIDC grant funds are calculated as the approved cost analysis offset by the local share. Any system seeking to modify its local share due to errors in the original calculation must contact its Regional Manager. Modifications are subject to review of the methodology by the Grant Manager and approval by the Commission.

Fund Established

A condition of award to the local system(s) shall include the grantee securing and supplying to the MIDC a resolution from the local legislative branch (board of commissioners, city council) for the creation of a new fund within the local chart of accounts. The sole purpose of this fund shall be for accepting the grants funds from the MIDC and charging all plan-related costs to this fund. As a condition or assurance upon accepting the award, this fund will allow for better management of the grant funds and monitoring by the local and state interested parties. All adult indigent criminal defense funding (local share and MIDC grant award) must be deposited into the fund. The local fund description shall allow for any fund balance not to revert to the general fund at the close of a fiscal year. Rollover funds will be used for expenditures that cross fiscal years as well as unexpended funds to be used for future compliance expenditures.

Guidelines for Drafting Compliance Plans

The following information captures decisions that the Commission has made through action on prior plans and costs for compliance with the standards. In reviewing compliance plans, the Commission will generally limit approval of costs to those necessary to implement the MIDC's standards. Novel questions will be brought to the Commission for decision.

General Principles

Prosecutors, Judges, Magistrates

The MIDC Act charges the Michigan Indigent Defense Commission with the authority to develop, oversee 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 the State of Michigan. The Commission will not provide funding for prosecutors, judges, or magistrates to perform their duties. The Commission remains mindful that “defense attorneys who provide indigent criminal defense services are partners with the prosecution, law enforcement, and the judiciary in the criminal justice system.” MCL 780.989(4).

Administrator for Delivery Systems

A funding unit considering the use of a managed assigned counsel system or public defender administrator must use a licensed attorney in good standing with the State Bar of Michigan for all duties involving management or oversight of attorneys or cases within the system.¹

Defense Attorneys – Direct Service Providers

All attorneys identified by the funding unit to provide direct representation to indigent defendants must be licensed attorneys in good standing with the State Bar of Michigan and are bound by the Michigan Rules of Professional Conduct. Until approval of Minimum Standard 8, Economic Disincentives or Incentives, funding unit

¹ See MIDC meeting minutes, June 2017; MRPC 5.4(c).

employees or contract providers shall be given reasonable compensation.

Non-Lawyers – Direct Service Providers and Interdisciplinary Defense Teams

Provided they are used to comply with minimum standards, MIDC grant funds can be used to hire employees or independently contract with licensed private investigators, or experts in any field recognized in the criminal justice community, to assist the defense.

Public Defender and Managed Assigned Counsel Systems

Systems may choose to set up regional or local delivery system reform models such as public defender offices or managed assigned counsel programs to meet the minimum standards.² Set-up and operational costs of the office should be included. Lease or rent payments for offices of funding unit employees providing direct services and their staff are permissible expenses.

A compliance plan may include the cost of the State of Michigan's basic bar dues for attorneys employed full time by the system. MIDC grant funding is not permitted for membership in sections or local bar associations.³

A compliance plan may include the cost of malpractice insurance for attorneys employed full time by the system.⁴ Rates should be commensurate with those offered by the National Legal Aid and Defender Association's preferred carrier.

Hiring of Ancillary Staff

Many systems will hire indirect or ancillary service providers to implement the standards. Ancillary staff refers to personnel outside of assigned counsel and their support staff. Most often these positions include jail staff to facilitate attorney-client communication pursuant to

² MIDC staff members are able to assist systems with hiring considerations, but cannot serve as a voting member in any employment decision-making process.

³ See MIDC meeting minutes, October 2019.

⁴ See MIDC meeting minutes, July 2019.

Standards 2 and 4. Other positions include clerks or court staff. These positions must be reasonably and directly related to implementation of the standards to qualify for MIDC grant funding. Supplanting⁵ of existing positions is not permitted.

Cost Allocation

Systems seeking to include cost allocation or indirect costs for employees are allowed. Funding that exceeds 10% of the personnel and fringe benefit (total) is subject to additional scrutiny and must include any methodology for determining the costs.⁶

Reimbursement for Overspending

A system that spends in excess of the prior year's total system cost can seek reimbursement as a separate line item in the subsequent cost analysis for services.

Regional Cooperation

The Commission urges efficient models of providing indigent defense. In some communities, multiple funding units may collaborate to deliver indigent defense services. The statutory authority for multiple counties cooperating in a regional delivery system model can be found in the Urban Cooperation Act of 1967, at MCL §124.501 et seq.

Travel

Rates will be appended to the grant contract. Unless local rates apply, any travel related expenses requested for compliance planning shall not exceed the rates provided by the "Schedule of Travel Rates" and the general policies for reimbursement of travel adopted by the State of Michigan.

Absent extraordinary circumstances, no grant funds for out-of-state travel will be allowed in any compliance plans. Travel to visit a client

⁵ Supplanting refers to the local funding unit's reduction of local funds for an activity specifically because state funds are available to fund that same activity.

⁶ See MIDC meeting minutes, June 2019.

housed in custody in another state constitutes an extraordinary circumstance.

Travel for training out of state will only constitute an extraordinary circumstances if it is necessary to secure specialized training for public defender staff that is not available in Michigan.⁷ Public defender offices may seek funding for newly-hired attorneys with fewer than two years of experience practicing criminal defense in Michigan to participate in one basic skills acquisition class in an out of state training program. Systems must pursue any financial aid available to fund attendance for an employee's attendance at an out of state training program.

MIDC grant funding is not permitted for purchasing or leasing automobiles.

⁷ See State of Michigan LARA Out of State Travel Request Authorization form C-100.

Planning for Compliance with MIDC Approved Standards

Standard 1 – Training and Education

General Requirements

Michigan Indigent Defense Commission (MIDC) Standard 1 requires that attorneys shall annually complete at least twelve hours of continuing legal education. Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic multi-day (minimum of 16 hours) skills acquisition class.

Pursuant to MIDC Standard 1.D, system practices that require assigned counsel to subsidize mandatory training will not be approved. Training shall be funded through compliance plans submitted by the local delivery system or other mechanism that does not place a financial burden on assigned counsel.

Standard 1 is an annual training requirement for every attorney each calendar year. Participation in a basic skills acquisition course (skills training) counts towards the annual continuing legal education requirement.

In the compliance plan, provide the **names and P#s of all attorneys** who will provide indigent defense in the year covered by the compliance plan. Further identify in that category those attorneys who have practiced criminal defense for two years or less.

All attorneys providing services in the system should be included in the compliance plan, regardless of whether the attorney practices in other systems. Funding for training and individual training requirements may vary by system. In the event of duplicate registration for a single event, the source of payment should default to the funding unit based on the address listed for the attorney in the bar journal. Deviation from the default is allowed if doing so is necessary to meet the requirements of the standard.

In the plan and cost analysis, describe whether the training is part of the 12 hours of annual continuing legal education (CLE) and/or skills training for new lawyers.

Please see the MIDC's website at <https://michiganidc.gov/cle/> for more information.

Permissible Costs

For **new training programs**, identify the cost of set-up and implementation including personnel, contractors, equipment, supplies, and operating expenses including meals at a group rate. For **existing training programs**, identify the number of attorneys to be trained, the courses or programs that will be attended with a cost of registration/tuition (using a rate of \$30 per credit hour), travel, and other expenses incurred by the trainees. Attorneys will not be reimbursed at any rate for their time spent in or traveling to training sessions.

No printed materials will be funded if digital materials are provided for training purposes.

Memberships

For webinars, such as the National Association for Public Defense, use an annual rate of \$30/per criminal defense attorney for membership and access to programming.

For the Michigan State Appellate Defender Office's (Criminal Defense Resource Center) online resources, use an annual rate of \$50/per criminal defense attorney for membership and access to programming.

MIDC Grant funding will not be awarded for membership to the National Association for Criminal Defense Lawyers (NACDL), the Criminal Defense Attorneys of Michigan (CDAM), or the Institute for Continuing Legal Education (ICLE).

Communication and Plans for Reporting

Attorneys identified by the funding unit to represent adults charged with crimes in the particular system may receive communications from

the MIDC's staff regarding training opportunities and requirements for compliance with Standard 1. The MIDC staff will work to efficiently coordinate the statewide roster of attorneys and assist with communicating progress towards compliance with the standard. All attorneys must complete their training and education requirements by December 31 of each calendar year to remain eligible to continue to receive assignments in the following compliance plan year.

Each system must provide a plan for reporting CLE attendance to the MIDC for data collection purposes, pursuant to Michigan Supreme Court Administrative Order 2016-2. Documentation of attendance must be submitted to the MIDC no later than 30 days after completion of the course(s). This documentation should be sent to LARA-MIDC-CLE@michigan.gov.

Standard 2 – Initial Interview

General Requirements

This standard requires that 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. Attorneys should be prepared to complete a voucher form for all assigned cases indicating time spent on the assignment, including when and where the initial interview occurred. Alternatively, systems must indicate a method for verifying timely interviews. Sample vouchers are available on the MIDC's website.

This standard further requires a confidential setting for these interviews in both the courthouse and jail. Upon request by an attorney, the system must accommodate the ability to pass legal materials between an attorney and an in-custody client.

Permissible Costs

If it is necessary to create or alter building space to provide a confidential setting for attorneys and their clients, renovation expenses are allowed up to a maximum of \$25,000 per location. Requests exceeding \$25,000 will be reviewed with higher due diligence and considered with accompanying documentation for justification.

For all systems undergoing construction to create confidential space, a detail regarding progress on the project will be required quarterly.

If public defender offices need additional attorneys to comply with the initial interview standard, funding units may seek grant funds for personnel.

Other systems may need to change contracting or assigned counsel compensation policies. Funding units, using a contract or rotating assignment system, shall pay attorneys for the initial interview in all assigned criminal cases. Attorneys shall be compensated a reasonable fee for the initial interview, including mileage and travel expenses for

clients who are not in local custody. Confidential video visits are permissible for initial interviews with in-custody defendants.

Efficient use of technology (such as the use of Polycom systems) and existing space in courthouses and jails in lieu of construction projects is encouraged to ensure and facilitate confidential interview space. Equipment can be included in the cost analysis of the compliance plan.

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Standard 3 – Investigation and Experts

General Requirements

This 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.

Funding units may seek grant funds to employ licensed investigators as needed to comply with Standard 3, and/or seek grant funds to contract with investigators or any expert witness identified as necessary to assist with the defense of an indigent client.

Non-assigned (i.e., retained, *pro bono*) counsel representing adult clients who become indigent during the course of the representation and who are in need of expert or investigative services may seek use of indigent defense funding for these resources from the system pursuant to case law⁸ and/or the local system’s policy.

Permissible Costs

Expenses for investigators will be considered at hourly rates not to exceed \$75. Expenses for expert witnesses will follow a tiered level of compensation based on education level and type of expert⁹ not to exceed these amounts:

- High School or Equivalent \$30/hr
- Associate’s Degree \$50/hr
- Bachelor’s Degree \$70/hr
- Master’s Degree \$85/hr
- Crime Scene and Related Experts \$100/hr
- CPA/Financial Expert \$100/hr

⁸ See, e.g., *People v. Kennedy*, 502 Mich. 206 (2018).

⁹The table of expert hourly rates is adopted from the guidelines published by the North Carolina Indigent Defense Services Commission. Variations will be considered on a case-by-case basis.

- Pharmacy/PharmD \$125/hr
- Information Technology Experts \$150/hr
- Ph.D./Licensed Doctor \$200/hr
- Medical Doctor \$250/hr
- MD with Specialty (e.g., Psychiatrist, Pathologist) \$300/hr

Unless there is a demonstrated need, each indigent defense system will be limited to a capped amount of funds for investigators and experts based on the total new circuit adult criminal filings within the jurisdiction in the most recent calendar year, as reported and certified with the State Court Administrative Office. Systems within district courts of the 3rd class are considered in Tier I unless special circumstances are presented.

- 0 - 499 cases/year = Tier I - \$10,000
- 500 - 999 cases/year = Tier II - \$25,000
- 1,000 - 9,999 cases/year = Tier III - \$50,000
- Over 10,000 cases/year = Tier IV - To be determined bases on further discussion and review of records of the system(s)

All funding units must have an approved line item for using experts and investigators in the local court system. The funding unit should reimburse these service providers directly based upon a proper accounting of time spent during the grant reporting period. Systems should report whether an expert or investigator was requested, approved, or denied in a particular case to ensure compliance with the standard. The MIDC rates should be used unless a higher rate is specifically authorized by a system for the case. Experts and investigators should be reimbursed for travel related to their work on a case.

Standard 4 – Counsel at First Appearance and Other Critical Stages

General Requirements

Every system in Michigan is required to make an attorney available for an adult charged with a crime facing the loss of his or her liberty. 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. A “critical stage” is any proceeding involving the potential for loss of liberty.

This Standard does not prevent an adult charged with a crime from representing themselves during any proceeding, including the arraignment. All defendants should be given an opportunity to meet with counsel prior to an arraignment where liberty is at stake. Information about waiving counsel should be provided by the court system, preferably by counsel employed to meet this standard.

In virtually all systems, the attorney at the first appearance is not necessarily going to be the attorney appointed to the case. Attorneys providing this service should be paid consistent with the approved costs for these services.

Systems will be required to report specific information about every arraignment including the number of total arraignments and breakdown of representation in any of the following categories: retained counsel, assigned counsel, waiver of counsel by defendant, or counsel not present. Guilty pleas submitted to courts outside of the arraignment process (“counter” pleas or “plea by mail”) must be tracked and reported by the system. Systems that will not accept a guilty plea at arraignment and will issue personal bonds do not need to make an attorney available at the initial appearance before a magistrate or judge.

Permissible Costs

Funding Units with public defender systems may seek grant funds to hire defense attorneys to comply with the standard for counsel at first appearance.

Funding units using a contract or rotating assignment system shall pay attorneys for the first appearance in a criminal case. A flat-rate can be paid to an attorney to be available on an on-call basis; until the approval of Standard 8 providing more specific guidelines, counsel shall be paid a reasonable fee.

Technology should be used to ensure the effective representation of indigent defendants. Attorneys may use telephone or video services to facilitate the appearance at arraignment.

In addition to all trial proceedings, funding under this standard can include defense attorney representation or participation in the following matters:

- Criminal contempt and/or show-cause hearings
- District to Circuit Court appeals
- Problem Solving Courts and Swift and Sure Sanctions Probation Programs

Standard 5 – Independence from the Judiciary

This proposed standard has not been approved by the Department of Licensing and Regulatory Affairs. However, many systems have submitted compliance plans seeking independent administration of the delivery system.

A managed assigned counsel system (hereafter, “MAC”) is a model that can be used either in coordination with the public defender office or alone to provide indigent defense services in communities at the trial level. This system has independence with oversight by a government-appointed or non-profit agency commission, or by the Executive Branch. MAC is an ideal system to guarantee participation of a vibrant private bar in the delivery of indigent defense.

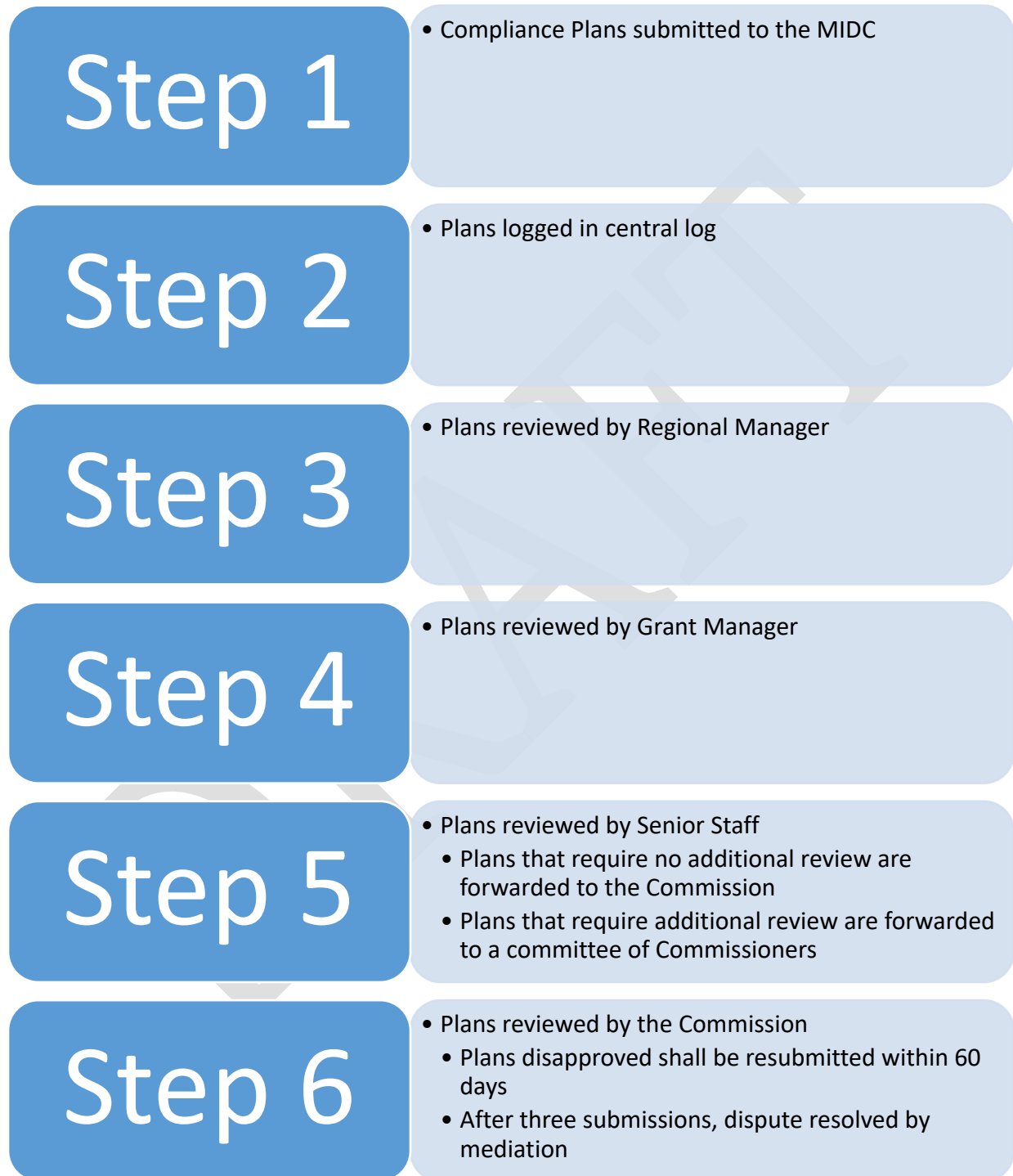
As with a public defender office, a county or regional MAC can be a very good way to comply with the MIDC standards and best practices:

- MAC can coordinate a program to train attorneys to work on assigned cases;
- MAC can provide resources for prompt meetings with clients and condition participation on these meetings;
- MAC can coordinate contracting of investigators or experts, and even retain investigators on staff;
- MAC can specifically assign counsel at first appearance.

MAC could also comply with many proposed standards including qualifications and evaluations of assigned counsel by having a framework for evaluating the attorneys on the roster and setting requirements for different sorts of cases. MAC can enforce caseload limitations on roster attorneys and establish fair compensation if properly resourced.

As a best practice, systems using a MAC administration model should create a process for reviewing or appealing decisions of the MAC administrator.

Compliance Plan Submission



Compliance Reporting by Indigent Defense Systems

The contract executed between the MIDC and the local system is the primary source of information about specific reporting obligations. This portion of the guide is provided for the convenience of stakeholders seeking information about reporting.

Resources

Please consult the MIDC's website at <https://michiganidc.gov/grants/> for regularly updated information about reporting, webinars, checklists, and templates.

Distribution of Funding

The Department of Treasury has established a new fund within the local chart of accounts. The sole purpose of this fund shall be for accepting the grants funds from the MIDC and charging all plan-related costs to this fund. The system's "local share" must also be deposited in this fund during the course of the grant contract period, and no later than the end of the contract term.

Systems will work with the MIDC staff to finalize a budget consistent with the cost analysis approved by the MIDC. This process may require assignment of spending between state and local funding sources. Funding must only be used as set forth in the approved plan and cost analysis.

Systems will receive a contract from the MIDC upon approval of the system's compliance plan *and* cost analysis by the Commission. Once the contract is fully executed, the MIDC will distribute grants to the system consistent with the approved budget and as set forth in the system's approved plan. The MIDC will distribute 50% of the approved state grant within 15 days of the contract being executed by all parties. The timeframe for compliance with the approved plan will begin on the date of the initial distribution. Each system will submit a progress report describing compliance with the plan on a quarterly basis, together with a financial status report detailing expenses incurred that quarter. If it is determined that the total amount of funding awarded in the previous

year's grant was not fully expended or that grant money was used for a purpose outside of the compliance plan, those funds must be repaid to the MIDC, or if not repaid, must be deducted from future grant amounts. MCL 780.993(15).

Dates for Distribution of MIDC Grant Funding

- Initial Advance of 50% of the state grant – Within 15 days of receipt of executed agreement
- 25% disbursement – May 15
- 25% disbursement – August 14 (final payment).

The above schedule of disbursement of funds is contingent after receipt of quarterly reporting as addressed in the grant contract.

Reporting Required

Financial Status Report (FSR)

Each system is required to provide a report on the expenses incurred for implementing the plan for indigent defense delivery. The system should use a form provided by the MIDC to detail the total system costs and identify the source of funding: the local share, MIDC funding, or other sources (i.e., Michigan Department of Corrections). The FSR must be supported with documentation for the expenses to be eligible for reimbursement. Receipts for purchases, payroll, documentation, and vouchers from direct service providers should be attached to the FSR.

Expenses are eligible for payment if incurred during the grant contract period (on or after October 1 of the grant contract year).

Compliance Plan Progress Report (PR)

A short program report detailing in narrative form the system's progress towards fully implementing the compliance plan is required quarterly. This report should complement the FSR and offer context about the expenses incurred during the specified timeframe.

The funding units will be asked for basic information in each report to ensure the MIDC has the appropriate points of contact and authorizing

officials, as well as a list of all attorneys with P#s assigned by the system to represent indigent adults charged with crimes. Approved compliance plans addressed each standard individually, and reporting should track compliance with the standards according to the plan. The progress report will mirror this approach and collect information regarding new case filings, assignments to attorneys, and compliance with Standards 1, 2, 3, and 4 as set forth in the approved plan.

Due Dates for Reporting

- Initial FSR and compliance report for October 1 – December 31 due on January 31st
- 2nd FSR and compliance report for January 1 – March 31 due on April 30th
- 3rd FSR and compliance report for April 1 – June 30 – due on July 31st
- Final FSR and compliance report for July 1 – September 30 – due no later than October 31, together with a report of the unexpended balance in the account used for adult indigent criminal defense services.

Every system is required to annually submit a plan for compliance for the next state fiscal year during the timeframe and in the manner established by the MIDC.

Adjustments to Approved Plans or Budgets

The MIDC is mindful that many systems submitted a plan for compliance and cost analysis nearly one year prior to funding distribution. While adjustments to the cost analysis will be necessary in many instances, there should be no substantial changes to the delivery system method set forth in the plan itself without prior approval from the Michigan Indigent Defense Commission. A “substantial change” is one that alters the method of meeting the objectives of the standard(s) in the approved plan. For example, a system with an approved plan for a public defender

office that would instead prefer to maintain a contract system would constitute a “substantial change” to the approved plan.

Any system seeking a substantial change to their **compliance plan** must contact their Regional Manager for guidance on that process, which will require a written request, justification for the change, and multi-level staff review prior to consideration by the Commission. Substantial changes to a compliance plan will not be recommended for approval to the Commission absent extraordinary circumstances.

Adjustments to a system’s approved **contract budget** must be communicated promptly to the Regional Manager. Once a cost analysis has been approved by the MIDC, the award total cannot increase, but adjustments within the award total can be allowed. Please contact your Regional Manager for guidance with budget adjustments. Budget adjustments will be processed with other quarterly reporting documents unless extraordinary circumstances require action sooner.

- Deviation allowance: If the adjustment involves redistributing less than 5% of the budget category total, (e.g., “equipment”), then the adjustment must be reported in the next quarterly FSA.
- A budget adjustment involving greater than 5% of the aggregate of all funding within a budget category requires prior written approval by the MIDC Staff and must be reported to the MIDC as soon after the Grantee is aware of the necessity of the Budget adjustment and reported in the Grantee’s quarterly report.

The system is required to use the MIDC’s budget adjustment form for any budget adjustment request and must obtain approval of MIDC staff prior to making any changes to the contract budget.

All adjustments to the approved cost analysis will be reported to the MIDC during regularly scheduled meetings, or as requested by the Commission.

Evaluation of Plans

All systems will be reviewed for compliance with the MIDC's standards, the approved plan and the approved cost analysis. A complete rubric for evaluation is available on the MIDC's website, a portion of which is displayed below:

FUNDING UNIT: _____

Date of Required Compliance: _____

Date of Evaluation: _____

STANDARD 1	TOTAL POSSIBLE POINTS	TOTAL POINTS AWARDED	COMMENTS
Has the attorney list been updated and submitted in the most recent quarter?	3		
Has a process been established and implemented to pay for and confirm attorney training (including for new attorneys to complete skills training)?	3		
Have attorneys either completed 12 hrs of CLE or been removed from the list?	<i>non-point question</i>		
STANDARD 2			
Have confidential meeting spaces been established or have sufficient steps been taken toward this end?			
In holding facilities/jails	3		
In courtrooms - out-of-custody clients	3		
In courtrooms - in-custody clients	3		
Are the confidential meeting spaces adequate?	<i>non-point question</i>		
Are defense attorneys using the confidential meeting space?	<i>non-point question</i>		
Are attorneys being appointed and notified in a timely and effective fashion?	3		
Is the system verifying invoices/other documents to ensure timely client interviews?	3		
Are attorneys being paid for initial interviews?	3		
Does the system have a process to manage attorney non-compliance?	<i>non-point question</i>		
Are all attorneys meeting with clients within 3 business days?	<i>non-point question</i>		
STANDARD 3			
Does a process exist for attorneys to seek funding for experts and investigators?	3		
Have attorneys been notified of the process?	3		
Are requests being tracked by the system?	<i>non-point question</i>		
Have any attorneys utilized this process?	<i>non-point question</i>		
What is the breakdown between requests granted and denied?	<i>non-point question</i>		

Compliance Planning Committee Meeting
May 7, 2020 at 3:00pm

Committee members present: Jeffrey Collins (Chair), Kimberly Buddin, Andrew DeLeeuw, Jim Fisher, Christine Green, Tom McMillin, Mike Puerner, John Shea

Staff present: Loren Khogali, Rebecca Mack, Marla McCowan, Kelly McDoniel, Chris Sadler, Jonah Siegel, Marcela Westrate

The committee convened at 3:05 p.m.

General overview. A general overview of the status of FY21 planning was provided to the committee.

Compliance planning committees. The committee reviewed the descriptions provided for each of the committees. A question arose about the charge of the line item veto committee. Staff will revise the description to better reflect how questions will come before the committee.

Timing of review of plans. At its February meeting, the Commission voted to extend the due date for compliance plans to May 31st. At the time of the committee meeting, 6 final initial submissions had been received by staff. The committee discussed scheduling the review of first submissions of compliance plans for the June, July and August meetings and scheduling second round reviews beginning at the August meeting. This timing would comply with the statutory timelines set forth in the statute and would allow staff adequate time to review and present plans to the Commission. There was consensus on the committee to schedule first round plans for the June, July and August meetings. The committee agreed that this schedule should be communicated to the funding units. The committee discussed beginning second round plans in October. The committee generally agreed with this timing and did not want to unduly disrupt staff review of other plans nor foreclose staff from placing second round plans on an earlier meeting agenda where necessary.

- Compliance plans and cost analyses. Staff proposed and the committee agreed that it should be communicated to funding units that compliance plans with vendor model public defender offices must include a detailed budget [JAS: “similar to that provided by funding units utilizing other systems for service delivery.”].
- System change models. Staff proposed and the committee agreed that funding units submitting plans involving system change should include a feasibility study, including a caseload analysis, sufficiently detailed to allow staff and Commission to review anticipates system impacts. This has been done by many systems adopting system change and provides a useful resource to the Commission in reviewing plans for approval. In the past, where a formal review process was undertaken, planning money was available for funding.

Areas for increases to plans. Staff walked through the areas in which the Commission may see increases for plans.

- COLA/inflationary increase. The committee agreed that these types of increases must be consistent with general local policy
- Technology. Systems may include increased requests for technology in response to the shift to remote court proceedings.
- System change and increased ancillary spending. These are areas in which the Commission may wish to engage in some additional scrutiny in reviewing plans.

Reduction in overall total of compliance plans. The committee discussed possible approaches to an appropriation that is less than the total cost of the approved compliance plans. The committee generally favored:

- A method of reducing plans that provided flexibility and reflected the uniqueness of the individual funding units. This included discussion of asking the systems to rank items most critical to implementation of the standards with guidance from the Commission as to what it would focus on as not critical or most critical;
- Ensuring that the Commission solicits and receives input from funding units;
- Prioritizing funding for costs that are most critical to implementation of MIDC minimum standards;

Compliance plan review tool. Staff presented the compliance plan assessment tool to the committee. At conclusion of the presentation and committee discussion, it was agreed that the tool would be modified to break out felony and misdemeanor caseloads for individual systems prior to the committee reconvening. The tool will be presented to the full commission at its June meeting.

The committee agreed to move a discussion about remedies for noncompliance to a subsequent committee meeting.

The committee will reconvene prior to the June Commission meeting for further discussion.

Compliance Planning Committee Meeting
June 4, 2020 at 1:30pm

Committee members present: Jeffrey Collins (Chair), Andrew DeLeeuw, Jim Fisher, Christine Green, Tom McMillin, Mike Puerner, John Shea

Staff present: Loren Khogali, Rebecca Mack, Marla McCowan, Kelly McDoniel, Chris Sadler, Jonah Siegel, Marcela Westrate

The committee convened its meeting at 1:40 p.m.

General overview and timing of submissions and approach to review of plans. At the time of the committee meeting, 102 compliance plans had been received. The majority of compliance plans were submitted between 5/28 and 6/1. The committee discussed the following with respect to the submission and review of compliance plans:

- The commission meeting schedule, which included meetings for June, July and August, was originally configured with an additional July meeting to accommodate the review of compliance plans due April 30th. In light of COVID, in February, the Commission voted to extend the due date for compliance plans to May 31st. In addition, in June, all MIDC staff received notice of furlough days on which they are prohibited from working. All staff, with the exception of the Executive Director, are furloughed one day per week. Furlough days are split Monday and Friday, leaving staff with three collective workdays per week. The committee agreed that in light of these circumstances, it makes sense to cancel the Commission's July meeting. The Commission will begin to review plans at its June meeting, with the bulk of plans being on the August agenda for review. If necessary, the Commission may hold an additional meeting in late August or September.
- The committee agreed that in light of the state of emergency declared in Iosco, Saginaw, Midland and Arenac, staff should communicate an extension of the compliance plan submission due date. The new due date for submission will be June 30th.
- Staff provided an overview as to two substantial budget adjustment requests from funding units in Wayne County and Kalamazoo for which additional information/justification had been requested.

Compliance planning committees. The committee reviewed and was satisfied with the revised description of the line item veto committee.

Discussion of FY21 budget. An update as to the FY21 budget was provided to the committee. The committee continued its discussion of budget advocacy and possible approaches to an appropriation that is less than the total cost of the approved compliance plans. The committee agreed to recommend to the Commission that it adopt an approach that does not apply an "across the board" cut to all funding units but rather recognizes the individual nature of the local compliance plans.

Compliance plan review tool. Staff presented the modified compliance plan assessment tool to the committee. The tool will be presented to the full commission at its June meeting.

The committee agreed to reconvene for further discussion after the June commission meeting.

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MICHIGAN INDIGENT
DEFENSE COMMISSION

Compliance Planning Committees - April 2020

System Change – *Reviews any compliance plan that includes a substantial change to the method or system by which the funding unit will deliver indigent defense services funded under the MIDC grant.*

- Gary Walker (Chair)
- Andrew DeLeeuw
- Tracey Brame
- Margaret McAvoy

Increase to Direct Costs – *Reviews any plan in which there is an increase to direct indigent defense services.*

- William Swor (Chair)
- Joe Haveman
- Jeffrey Collins

Line Item Veto – *Reviews any plan on third submission where staff recommends that item be struck under the statutory provision allowing the MIDC to disapprove “all or any portion of a plan or cost analysis.” Provides guidance on items that may be subject to line item veto.*

- Tom McMillin (Chair)
- Kim Buddin
- John Shea
- James Krizan

General Increase to Plan - *Reviews any compliance plan that includes an increase to the cost analysis total, excluding direct indigent defense services and annual inflationary increases.*

- Christine Green (Chair)
- James Fisher
- Mike Puerner
- Hakim Crampton

Compliance Planning Committee

- Jeffrey Collins (Chair)
- Kimberly Buddin Tom McMillin
- Andrew DeLeeuw Mike Puerner
- Jim Fisher John Shea
- Christine Green