



MICHIGAN INDIGENT
DEFENSE COMMISSION

Date: Tuesday, June 15, 2021, Time: 9:00 a.m.

Meeting will be held remotely via Zoom:
<https://us02web.zoom.us/j/81975353042>

Meeting ID: 819 7535 3042
One tap mobile
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Meeting ID: 819 7535 3042

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 2021 Meeting Minutes
 - April 2021 Close Session Minutes
6. Chair Report
7. Executive Director Report
8. Commission Business
 - a. Legislative and Budget Update
 - b. Committee Reports
 - i. Strategic Planning Committee
 - ii. Training and Education Committee
 - c. Wayne County Mediation Update
 - d. FY22 Byrne JAG Grant Opportunity
 - e. 2021-12 Administrative Order – Proposed Amendments of Michigan Court Rules Related to Standard 5 (Action item)
 - f. FY22 Compliance Planning Process
 - a. FY22 MIDC Grant Contract (Action item)
 - b. Compliance Resolution Process (Action item)
 - g. FY21 Compliance Updates
 1. Budget adjustments
 - a. FY21 2nd Quarter Reporting
 - b. Budget adjustments

** This meeting will be conducted remotely and consistent with City of Lansing Resolution #2021-081. 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 LARA-MIDC-Info@michigan.gov.

h. Review of Initial FY22 Compliance Plan and Cost Analysis Submissions (Action item)

1. Senior Staff Recommendations:

- **Recommendation: Disapprove Compliance Plan, Disapprove Cost Analysis Failure to submit compliance plan and cost analysis:**

1. Alcona County
2. Alpena County
3. Oakland County
4. Montmorency County
5. St. Joseph County

Recommended denial on the merit of the submission:

6. Branch County
7. Chippewa County
8. Crawford County
9. D-25 City of Lincoln Park
10. D-32a City of Harper Woods
11. D-37 Cities of Warren and Centerline
12. Grosse Pointe Woods
13. Mackinac County
14. Menominee County
15. Wexford and Missaukee Counties
16. D-18 City of Westland
17. D-44 City of Royal Oak
18. D-47 City of Farmington
19. D-61 City of Grand Rapids
20. D-62a City of Wyoming
21. Eaton County
22. Iron County
23. Lenawee County
24. Ontonagon County
25. Charlevoix County
26. D-36 City of Detroit
27. D-39 Cities of Roseville and Fraser
28. D-40 City of St. Clair Shores
29. D-41a2 Charter Township of Shelby
30. D-41b Clinton Township
31. D-43-1 City of Hazel Park
32. D-43-2 City of Ferndale
33. D43-3 City of Madison Heights
34. Delta County
35. Dickinson County
36. Emmet County
37. Hillsdale County
38. Houghton, Baraga and Keweenaw Counties

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39. Jackson County
 40. Kalamazoo County
 41. Macomb County
 42. Marquette County
 43. Otsego County
 44. Presque Isle County
 45. Wayne County
- **Recommendation: Approve Compliance Plan, Disapprove Cost Analysis**
 46. D-28 City of Southgate
 47. D-38 City of Eastpointe
 48. Midland County
 49. Tuscola County
 50. Washtenaw County
 51. Alger County
 52. D-17 Township of Redford
 53. D-29 City of Wayne
 54. D-45 City of Oak Park
 55. Ogemaw County
 56. Saginaw County
 - **Recommendation: Approve Compliance Plan, Approve Cost Analysis**
 57. Clinton County
 58. D-46 City of Southfield
 59. D-50 City of Pontiac
 60. Lapeer County
 61. Arenac County
 62. Barry County
 63. D-48 City of Birmingham
 64. Gratiot County
 65. Huron County
 66. Schoolcraft County
 67. Allegan and Van Buren Counties
 68. Antrim County
 69. Cass County
 70. Ionia County
 71. Livingston County
 72. Montcalm County
 73. Muskegon County
 74. Roscommon County
 75. D-16 City of Livonia
 76. D-19 City of Dearborn
 77. D-20 Dearborn Heights
 78. D-21 City of Garden City
 79. D-22 City of Inkster
 80. D-23 City of Taylor

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81. D-24 Cities of Allen Park and Melvindale
82. D-27 Cities of Wyandotte and Riverview
83. D-30 City of Highland Park
84. D-31 City of Hamtramck
85. D-33 Cities of Trenton and Woodhaven
86. D-34 City of Romulus
87. D-35 City of Plymouth
88. Grosse Pointe City
89. Grosse Pointe Farms and Shores
90. Grosse Pointe Park
91. Clare and Gladwin Counties
92. Lake County
93. Mason County
94. Mecosta County
95. Newaygo County
96. Oceana County
97. Osceola County
98. D-41a1 City of Sterling Heights
99. D-51 City of Waterford
100. Kalkaska County
101. Leelanau County
102. Monroe County
103. Benzie and Manistee Counties
104. Kent County
105. Shiawassee County
106. Berrien County
107. Calhoun County
108. Ingham County
109. Oscoda County
110. Ottawa County
111. Bay County
112. Cheboygan County
113. Genesee County
114. Gogebic County
115. Grand Traverse County
116. Iosco County
117. Isabella County
118. Luce County
119. Sanilac County
120. St. Clair County

2. FY22 13.2 Planning Costs

9. Next meeting – **August 17, 2021, Location TBD**
10. Adjourn

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Michigan Indigent Defense Commission Meeting Minutes

The meeting was held remotely via Zoom in compliance with the Open Meetings Act and Public Act 228 of 2020 and pursuant to Ingham County's state of emergency resolution #21-138 to reduce transmission of COVID-19 and protect the health of Commissioners, MIDC staff and members of the public interested in attending the meeting. The MIDC website and meeting notice included information for members of the public on how to participate.

April 20, 2021

Time: 9:00 am

Commission Members Participating

During roll call Commissioners were asked to identify the county, city, town or village and state from which they are attending, that information is reflected below in parentheses following each Commissioner's name.

- Judge Jeffrey Collins (Wayne County, Michigan)
- Joshua Blanchard (Greenville, Montcalm County, Michigan)
- Andrew DeLeeuw (Sharon Township, Washtenaw County, Michigan)
- Judge James Fisher (Manatee County, Florida)
- Christine Green (Scio Township, Washtenaw County, Michigan)
- David Jones (Detroit, Wayne County, Michigan)
- Margaret McAvoy (Mount Pleasant, Isabella County, Michigan) (joined at 10:24 am)
- Tom McMillin (Oakland Township, Oakland County, Michigan)
- Cami Pendell (Eaton County, Michigan)
- Michael Puerner, Chair, (Ada, Kent County, Michigan)
- Judge Kristina Robinson Garrett (Detroit, Wayne County, Michigan) (joined at 10:12 am)
- John Shea (Dexter Township, Washtenaw County, Michigan)
- William Swor (Detroit, Wayne County, Michigan)
- Gary Walker (Chocolay Township, Marquette County, Michigan), joined at 10:00 am

Commission Members Absent:

Tracey Brame, Kimberly Buddin, Hakim Crampton, James Krizan

Staff Members Participating

Loren Khogali, 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 Collins called the Michigan Indigent Defense Commission ("MIDC" or "the Commission") meeting to order at 9:01 am.

Introduction of Commission members and guests

Chair Collins welcomed attendees to the meeting. Guests were invited to introduce themselves.

Public Comment

There were no members of the public wishing to provide comment. A written comment from Carl Winslow was received via email prior to the meeting and distributed to members of the Commission.

Additions to agenda

The Urban Institute was unable to participate in the meeting. Chair Collins asked for a motion to remove item 8a from the agenda and to approve the remainder of the agenda as amended.

Commissioner Puerner moved that item 8a be removed from the agenda. Judge Fisher supported the motion. The motion carried.

Consent Agenda

Commissioner Swor moved that the consent agenda containing the open and closed session minutes from February 23, 2021 and the proposed Memorandum of Understanding with the Attorney General's office for FY21 be approved. Commissioner Green seconded. The motion carried.

Chair Report

Chair Collins thanked the members of the Strategic Planning Committee for their work since the committee's appointment. He thanked Judge Fisher, Ms. Khogali and Ms. McCowan for their work on the mediation with Wayne County. Chair Collins participated in the MIDC's Leadership Conference and thanked Commissioner Crampton for the presenting during one of the sessions.

Executive Director's Report

Ms. Khogali provided an overview of the meeting materials and an oral report to supplement her written report included in the meeting materials. Ms. Khogali highlighted the Social Worker Defense report and manual released by the Commission. She also welcomed Shunkea Brown to MIDC. Ms. Brown has been hired as MIDC's Grant Analyst.

Commission Business

Executive Committee

Chair Collins provided an overview of the committee's activities. The committee met and prepared the agenda for the April meeting and discussed items relating to the agenda.

Strategic Planning Committee

Commissioner Green, chair of the committee, updated the Commission on its activities. The committee has met three times since its creation. The committee plans to make recommendations to the commission. The committee will be providing regular updates to the Commission and will share a draft of the mission statement. Commissioner Green invited input from Commissioners who were not formally on the committee.

Wayne County Mediation

Ms. Khogali provided an update on the process. Attorney Pam Enslin was appointed as mediator by the State Court Administrator as required by the MIDC Act. Mediation is focused on a disapproved portion of the County's cost analysis totaling \$4.9 million to build meeting rooms in the new Wayne

County Criminal Justice Complex that will house the jail, juvenile detention facility and courthouse. The Commission otherwise approved \$31.3 million to fund Wayne County's plan for compliance with minimum indigent defense standards. The Commission has provided Wayne County a grant contract for the approved funding. Judge Fisher, Ms. Khogali and Ms. McCowan participated on behalf of the MIDC. No resolution was reached through mediation and the mediator offered a recommendation for a resolution on the matter.

Judge Fisher provided an overview of the mediator's recommendation and expressed his support of the Commission approving that resolution. The recommendation was distributed commissioners.

Judge Fisher moved that the Commission approve the resolution recommended by Ms. Enslin. Commissioner Walker supported the motion.

The Commissioners discussed the motion. James Heath spoke on behalf of Wayne County, offering the County's perspective on the mediation and the recommended resolution.

Commissioner Shea moved to table the motion temporarily to allow the Commission to review the recommendation. Commissioner Blanchard supported the motion. The motion carried.

Review of FY21 Compliance Plan Submissions

Plan changes

Oakland County would like to hire a chief attorney to oversee its office of indigent defense services prior to October 1 so that the County can prepare to implement Standard 5. The plan change can be accomplished through existing funds by reallocating from several different areas. MIDC staff recommends approving this request.

Commissioner Swor moved that the staff recommendation be adopted and that Oakland County's plan change be approved. Judge Collins supported. The motion carried.

Budget adjustments

The Grants Director approved a budget adjustment request for the 37th District Court in Warren/Centerline. A budget adjustment from Shiawassee County was denied.

City of Inkster

Ms. McCowan provided an overview of the City of Inkster's resubmitted plan and cost analysis. The staff recommendation is to approve the resubmitted plan and cost analysis.

Judge Fisher moved that the staff recommendation be adopted and that the City of Inkster's resubmitted plan and cost analysis be approved. Commissioner Green seconded the motion. The motion carried. Commissioner Jones abstained from the vote because of his role as the City Attorney.

City of Hazel Park

Ms. McCowan provided an overview of the plan and cost analysis resubmitted by the City of Hazel Park. The staff recommendation is to approve the resubmitted plan and partially approve the cost analysis with reductions to personnel costs and related fringe benefit due to the system's failure to provide sufficient documentation.

Judge Fisher moved that the staff recommendation be adopted and that the resubmitted plan and cost analysis be approved with the reductions to personnel funding. Commissioner Walker supported the motion. The motion carried.

EGraMS Introduction

Ms. McCowan gave an overview of the new grant management system (EGraMS). Commissioners will receive training on this system in the next few months. All compliance plans for FY22 will be submitted through this system.

The Commission went at ease for 10 minutes.

Return to discussion of Wayne County Mediation

This item was tabled earlier in the meeting. Commissioner Shea moved to remove this item from the table and return to discussion and consideration. Commissioner Swor seconded the motion. Commissioner Blanchard requested a voice vote to confirm that a majority of members voted to remove it from the table. Chair Collins called for the yeas and nays. The motion carried, a majority of members voting in support.

After discussion, the Commission addressed the motion made by Judge Fisher and seconded by Commissioner Walker to approve the settlement recommended by the mediator. The motion carried, Commissioner Blanchard opposing the motion.

Compliance Resolution Process

Ms. Khogali provided an overview of the proposed draft compliance resolution process. She invited Commissioners to provide feedback and thanked Ms. McDoniel for her work on this document. The document will be before the Commission in June for consideration.

Presentation by Public Sector Consultants

Scott Dzurka, Erin Lammers, and Stephan Vitvitsky presented on the work that Public Sector Consultants (PSC) has completed so far and next steps. PSC is working to complete the local share report that is required by statute to be delivered to the legislature by October 31, 2021.

Presentation on Expungement, Commissioner Crampton

Commissioner Crampton was unable to attend the meeting. The presentation was postponed until a future date.

Executive Director Evaluation Review

Ms. Khogali requested that the Commission consider her evaluation in a closed session. Commissioner Shea moved to go into closed session under MCL 15.268(a) to consider the periodic personnel evaluation of Ms. Khogali and under MCL 15.268(h) to consider material exempt from disclosure under section 13(1)(g) of the Freedom of Information Act. Judge Fisher seconded. Chair Collins requested a roll call vote. The motion carried with 13 yeas (Collins, Blanchard, DeLeeuw, Fisher, Green, Jones, McAvoy, McMillin, Puerner, Robinson Garrett, Shea, Swor and Walker) and 0 nays. The Commission moved into closed session at 11:37 am.

Commissioner Puerner moved that the Commission return to open session. Commissioner Shea seconded. Chair Collins requested a roll call vote. The motion carried with 13 yeas (Collins,

Blanchard, DeLeeuw, Fisher, Green, Jones, McAvoy, McMillin, Puerner, Robinson Garrett, Shea, Swor and Walker) and 0 nays. The Commission returned to open session at 11:57 am.

Commissioner Puerner moved that Ms. Khogali's performance evaluation be accepted as presented by the Chair. Commissioner Blanchard seconded. The motion carried. Chair Collins will meet with Ms. Khogali to review the evaluation.

Judge Fisher moved that the meeting be adjourned. Commissioner Green seconded the motion. The motion carried. The meeting adjourned at 12:01 pm.

The next meeting is June 15, 2021.

Respectfully submitted,
Marcela Westrate

REPORT ON PROGRESS OF STRATEGIC PLANNING COMMITTEE

MICHIGAN INDIGENT DEFENSE COMMISSION

MAY 28, 2021

Committee Members: Commissioners Blanchard, Collins, Crampton, Green (Committee Chair), McAvoy, and Swor. Staff: Loren Khogali

The Strategic Planning Committee has met on seven occasions since the Commission Issued its charge in February of 2021. During that time all committee members have contributed to in-depth discussions about MIDC's purpose, methods, and challenges. The Committee is on track to complete its work for submission to the full Commission on or before December 31, 2021.

The Committee has accomplished the following tasks, all of which will contribute to the Mission and Goals that will be embodied in the five-year Strategic Plan:

1. Completed a SWOT analysis (strengths, weaknesses, opportunities, and threats), which revealed issues for full Commission consideration;
2. Undertaken an exercise to identify MIDC's essential cause, the actions it takes (and should take) to further that cause, and the impact that MIDC's purpose and actions have on the people it serves, the systems it partners with, and the public at large;
3. Begun the process of creating a powerful and concise mission statement that communicates what MIDC stands for.

The Committee will continue to meet bi-weekly, 8:00 a.m. – 9:30 a.m., and intends to complete the following tasks over the next few weeks and months. All goals, statements, priorities and recommendations will be subject to full Commission review and approval:

1. Complete a draft of the Mission Statement for presentation to the Commission;
2. Create a Values Statement;
3. Identify MIDC's essential functions;
4. Recommend priorities to accomplish over the next five-years;
5. Establish long- and short-term goals for each of MIDC's Essential Functions;
6. Make recommendations on how to measure our success and impact.

It is anticipated that Chair Collins will schedule a Special Meeting of the Commission in early 2022 to review the Committee's recommendations and draft Strategic Plan. Supporting documents and exercises will be provided to the Commission prior to that meeting.

Order

Michigan Supreme Court
Lansing, Michigan

May 19, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-12

Proposed Amendments of
Rules 2.117, 3.708, 3.951,
6.005, 6.104, 6.445, 6.610,
6.625, 6.905, 6.907, 6.937,
and 6.938 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

On order of the Court, this is to advise that the Court is considering amendments of Rules 2.117, 3.708, 3.951, 6.005, 6.104, 6.445, 6.610, 6.625, 6.905, 6.907, 6.937, and 6.938 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearing are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover]

Rule 2.117 Appearances

(A) [Unchanged.]

(B) Appearance by Attorney.

(1)-(2) [Unchanged.]

(3) Appearance by Notice of Appointment.

(a) In some actions, an appointing authority independent of the judiciary determines the attorney that will represent a party for the entirety of the action. In some actions, an appointing authority independent of the judiciary determines that an attorney will represent a party for a single hearing—like an arraignment.

(b) In actions where an attorney is appointed for the entirety of the action, the appointing authority's notice of appointment constitutes an appearance on behalf of the appointed attorney.

(c) In actions where an attorney is appointed for a single hearing, the attorney should orally inform the court of the limited appointment at the time of the hearing. It is not necessary for the appointing authority to file an order of appointment or for the attorney to file an appearance.

~~(43)~~ [Renumbered but otherwise unchanged.]

(C) Duration of Appearance by Attorney.

(1)-(2) [Unchanged.]

(3) In appointed cases, substitute counsel shall file an appearance with the court after receiving the assignment from the appointing authority.

~~(43)~~ [Renumbered but otherwise unchanged.]

(D)-(E) [Unchanged.]

Rule 3.708 Contempt Proceedings for Violation of Personal Protection Orders

(A)-(C) [Unchanged.]

(D) Appearance or Arraignment; Advice to Respondent. At the respondent's first appearance before the circuit court, whether for arraignment under MCL 764.15b, enforcement under MCL 600.2950, 600.2950a, or 600.1701, or otherwise, the court must:

(1)-(2) [Unchanged.]

(3) advise the respondent that he or she is entitled to a lawyer's assistance at the hearing and, if the court determines it might sentence the respondent to jail, that the court, or the local funding unit's appointing authority if the local funding unit has determined that it will provide representation to respondents alleged to have violated a personal protection order, will appoint a lawyer at public expense if the individual wants one and is financially unable to retain one,

- (4) if requested and appropriate, appoint a lawyer or refer the matter to the appointing authority,

(5)-(6) [Unchanged.]

(E)-(I) [Unchanged.]

Rule 3.951 Initiating Designated Proceedings

- (A) Prosecutor-Designated Cases. The procedures in this subrule apply if the prosecuting attorney submits a petition designating the case for trial in the same manner as an adult.

(1) [Unchanged.]

(2) Procedure.

- (a) The court shall determine whether the juvenile's parent, guardian, or legal custodian has been notified and is present. The arraignment may be conducted without a parent, guardian, or legal custodian, provided a guardian ad litem or attorney appears with the juvenile. Attorney appointments, even if just for the arraignment, are to be done by the court's local funding unit's appointing authority.

- (b) The court shall read the allegations in the petition and advise the juvenile on the record in plain language:

- (i) of the right to an attorney at all court proceedings, including the arraignment pursuant to MCR 3.915(A)(1);

(ii)-(vi) [Unchanged.]

(c)-(d) [Unchanged.]

(3) [Unchanged.]

- (B) Court-Designated Cases. The procedures in this subrule apply if the prosecuting attorney submits a petition charging an offense other than a specified juvenile violation and requests the court to designate the case for trial in the same manner as an adult.

(1) [Unchanged.]

- (2) Procedure.
- (a) The court shall determine whether the juvenile's parent, guardian, or legal custodian has been notified and is present. The arraignment may be conducted without a parent, guardian, or legal custodian, provided a guardian ad litem or attorney appears with the juvenile. Attorney appointments, even if just for the arraignment, are to be done by the court's local funding unit's appointing authority.
- (b) The court shall read the allegations in the petition, and advise the juvenile on the record in plain language:
- (i) of the right to an attorney at all court proceedings, including the arraignment pursuant to MCR 3.915(A)(1);
- (ii)-(vii) [Unchanged.]
- (c)-(d) [Unchanged.]
- (3) [Unchanged.]

Rule 6.005 Right to Assistance of Lawyer; Advice; Appointment for Indigents; Waiver; Joint Representation; Grant Jury Proceedings.

- (A) Advice of Right. At the arraignment on the warrant or complaint, the court must advise the defendant
- (1) of entitlement to a lawyer's assistance at all ~~subsequent~~ court proceedings, and
- (2) that the defendant is entitled to~~court will appoint~~ a lawyer at public expense if the defendant wants one and is financially unable to retain one.

The court must ~~ask~~question the defendant ~~to determine~~ whether the defendant wants a lawyer and, if so, whether the defendant is financially unable to retain one.

- (B) Questioning Defendant About Indigency. If the defendant requests a lawyer and claims financial inability to retain one, the court must determine whether the defendant is indigent unless the court's local funding unit has designated an appointing authority in its compliance plan with the Michigan Indigent Defense Commission. If there is an appointing authority, the court must refer the defendant to the appointing authority for indigency screening. If there is no appointing authority, or if the defendant seeks judicial review of the appointing

authority's determination concerning indigency, tThe court's determination of indigency must be guided by the following factors:

(1)-(3) [Unchanged.]

(4) availability and convertibility, without undue financial hardship to the defendant and the defendant's dependents, of any personal or real property owned; ~~and~~

(5) the rebuttable presumptions of indigency listed in the MIDC's indigency standard; and

(6~~5~~) [Renumbered but otherwise unchanged.]

The ability to post bond for pretrial release does not make the defendant ineligible for appointment of a lawyer. The court reviews an appointing authority's determination of indigency de novo and may consider information not presented to the appointing authority.

(C) [Unchanged.]

(D) Appointment or Waiver of a Lawyer. ~~Where~~If the court makes the determination~~determines~~ that ~~at~~ the defendant is financially unable to retain a lawyer, it must promptly refer the defendant to the local indigent criminal defense system's appointing authority for appointment of a lawyer~~appoint a lawyer and promptly notify the lawyer of the appointment~~. The court may not permit the defendant to make an initial waiver of the right to be represented by a lawyer without first.

(1)-(2) [Unchanged.]

The court should encourage any defendant who appears without counsel to be screened for indigency and potential appointment of counsel.

(E) Advice at Subsequent Proceedings. If a defendant has waived the assistance of a lawyer, the record of each subsequent proceeding (e.g., preliminary examination, arraignment, proceedings leading to possible revocation of youthful trainee status, hearings, trial or sentencing) need show only that the court advised the defendant of the continuing right to a lawyer's assistance (at public expense if the defendant is indigent) and that the defendant waived that right. Before the court begins such proceedings,

(1) [Unchanged.]

(2) if the defendant requests a lawyer and is financially unable to retain one, the court must refer the defendant to the local indigent criminal defense system's appointing authority for the appointment of~~appoint~~ one; or

(3) [Unchanged.]

The court may refuse to adjourn a proceeding for the appointment of~~to appoint~~ counsel or allow a defendant to retain counsel if an adjournment would significantly prejudice the prosecution, and the defendant has not been reasonably diligent in seeking counsel.

(F) Multiple Representation. When two or more indigent defendants are jointly charged with an offense or offenses or their cases are otherwise joined, the local indigent criminal defense system~~court~~ must appoint separate lawyers unassociated in the practice of law for each defendant. Whenever two or more defendants who have been jointly charged or whose cases have been joined are represented by the same retained lawyer or lawyers associated in the practice of law, the court must inquire into the potential for a conflict of interest that might jeopardize the right of each defendant to the undivided loyalty of the lawyer. The court may not permit the joint representation unless:

(1)-(3) [Unchanged.]

(G)-(H) [Unchanged.]

(I) Assistance of Lawyer at Grand Jury Proceedings.

(1) [Unchanged.]

(2) The prosecutor assisting the grand jury is responsible for ensuring that a witness is informed of the right to a lawyer's assistance during examination by written notice accompanying the subpoena to the witness and by personal advice immediately before the examination. The notice must include language informing the witness that if the witness is financially unable to retain a lawyer, the chief judge in the circuit court in which the grand jury is convened will on request refer the witness to the local indigent criminal defense system for appointment of an attorney~~appoint one for the witness~~ at public expense.

Rule 6.104 Arraignment on the Warrant or Complaint

(A) Arraignment Without Unnecessary Delay. Unless released beforehand, an arrested person must be taken without unnecessary delay before a court for arraignment in accordance with the provisions of this rule, or must be arraigned without unnecessary delay by use of two-way interactive video technology in accordance with MCR 6.006(A). The arrested person is entitled to the assistance of an attorney at arraignment unless

(1) the arrested person makes an informed waiver of counsel or

(2) the court issues a personal bond and will not accept a plea of guilty or no contest at arraignment.

(B)-(D) [Unchanged.]

(E) Arraignment Procedure; Judicial Responsibilities. The court at the arraignment must

(1) [Unchanged.]

(2) if the accused is not represented by a lawyer at the arraignment, advise the accused that

(a)-(c) [Unchanged.]

(d) if the accused does not have the money to hire a lawyer, the local indigent criminal defense system~~court~~ will appoint a lawyer for the accused;

(3) advise the accused of the right to a lawyer at all ~~subsequent~~ court proceedings ~~and, if appropriate, appoint a lawyer;~~

(4)-(6) [Unchanged.]

The court may not question the accused about the alleged offense or request that the accused enter a plea.

(F)-(G) [Unchanged.]

Rule 6.445 Probation Revocation

(A) [Unchanged.]

(B) Arraignment on the Charge. At the arraignment on the alleged probation violation, the court must

(1) [Unchanged.]

(2) advise the probationer that

(a) [Unchanged.]

(b) the probationer is entitled to a lawyer's assistance at the hearing and at all ~~subsequent~~ court proceedings, including the arraignment on the violation/bond hearing, and that a lawyer~~the court~~ will be appointed ~~a lawyer~~ at public expense if the probationer wants one and is financially unable to retain one,

(3) if requested and appropriate, refer the matter to the local indigent criminal defense system's appointing authority for appointment of a lawyer~~appoint a lawyer~~,

(4)-(5) [Unchanged.]

(C)-(H) [Unchanged.]

Rule 6.610 Criminal Procedure Generally

(A)-(C) [Unchanged.]

(D) Arraignment; District Court Offenses

(1) Whenever a defendant is arraigned on an offense over which the district court has jurisdiction, the defendant must be informed of

(a)-(b) [Unchanged.]

(c) the defendant's right

(i) to the assistance of an attorney at all court proceedings, including arraignment, and to a trial;

(ii)-(iii) [Unchanged.]

The information may be given in a writing that is made a part of the file or by the court on the record.

- (2) [Unchanged.]
- (3) The right to the assistance of an attorney, to an appointed attorney, or to a trial by jury is not waived unless the defendant

(a)-(b) [Unchanged.]

If the defendant has not waived the right to counsel, the court must refer the matter to the Appointing Authority for the assignment of counsel.

- (4) [Unchanged.]

(E)-(F) [Unchanged.]

(G) Sentencing.

- (1)-(3) [Unchanged.]

- (4) Immediately after imposing a sentence of incarceration, even if suspended, the court must advise the defendant, on the record or in writing, that:

(a) if the defendant wishes to file an appeal and is financially unable to retain a lawyer, the local indigent criminal defense system's appointing authority~~court~~ will appoint a lawyer to represent the defendant on appeal, and

(b) [Unchanged.]

(H)-(I) [Unchanged.]

Rule 6.625 Appeal; Appointment of Appellate Counsel

(A) [Unchanged.]

- (B) If the court imposed a sentence of incarceration, even if suspended, and the defendant is indigent, the local indigent criminal defense system's appointing authority~~court~~ must ~~enter an order appointing~~ a lawyer if, within 14 days after sentencing, the defendant files a request for a lawyer or makes a request on the record. If the defendant makes a request on the record, the court shall inform the appointing authority of the request that same day. Unless there is a postjudgment

motion pending, the ~~appointing authority~~ must ~~act~~ on a defendant's request for a lawyer within 14 days after receiving it. If there is a postjudgment motion pending, the ~~appointing authority~~ must ~~act~~ on the request after the court's disposition of the pending motion and within 14 days after that disposition. If a lawyer is appointed, the 21 days for taking an appeal pursuant to MCR 7.104(A)(3) and MCR 7.105(A)(3) shall commence on the day of the appointment.

- (C) If indigency was not previously determined or there is a request for a redetermination of indigency, the court shall make an indigency determination unless the court's local funding unit has designated this duty to its appointing authority in its compliance plan with the Michigan Indigent Defense Commission. The determination of indigency and, if indigency is found, the appointment of counsel must occur with 14 days of the request unless a postjudgment motion is pending. If there is a postjudgment motion pending, the appointing authority must act on the request after the court's disposition of the pending motion and within 14 days after that disposition.
- (D) If a lawyer is appointed, the 21 days for taking an appeal pursuant to MCR 7.104(A)(3) and MCR 7.105(A)(3) shall commence on the day the notice of appointment is filed with the court.

Rule 6.905 Assistance of Attorney

- (A) [Unchanged.]
- (B) ~~Court~~-Appointed Attorney. Unless the juvenile has a retained attorney, or has waived the right to an attorney, the magistrate or the court must refer the matter to the local indigent criminal defense system's appointing authority for appointment of~~appoint~~ an attorney to represent the juvenile.

(C)-(D) [Unchanged.]

Rule 6.907 Arraignment on Complaint or Warrant

(A)-(B) [Unchanged.]

- (C) Procedure. At the arraignment on the complaint and warrant:
- (1) The magistrate shall determine whether a parent, guardian, or an adult relative of the juvenile is present. Arraignment may be conducted without the presence of a parent, guardian, or adult relative provided the local funding unit's appointment authority~~magistrate~~ appoints an attorney to

appear at arraignment with the juvenile or provided an attorney has been retained and appears with the juvenile.

(2) [Unchanged.]

Rule 6.937 Commitment Review Hearing

(A) Required Hearing Before Age 19 for Court-Committed Juveniles. The court shall schedule and hold, unless adjourned for good cause, a commitment review hearing as nearly as possible to, but before, the juvenile's 19th birthday.

(1) [Unchanged.]

(2) Appointment of an Attorney. The local funding unit's appointing authority~~court~~ must appoint an attorney to represent the juvenile at the hearing unless an attorney has been retained or is waived pursuant to MCR 6.905(C).

(3)-(4) [Unchanged.]

(B) Other Commitment Review Hearings. The court, on motion of the institution, agency, or facility to which the juvenile is committed, may release a juvenile at any time upon a showing by a preponderance of evidence that the juvenile has been rehabilitated and is not a risk to public safety. The notice provision in subrule (A), other than the requirement that the court clearly indicate that it may extend jurisdiction over the juvenile until the age of 21, and the criteria in subrule (A) shall apply. The rules of evidence shall not apply. The local funding unit's appointing authority~~court~~ must appoint an attorney to represent the juvenile at the hearing unless an attorney has been retained or the right to counsel waived. The court, upon notice and opportunity to be heard as provided in this rule, may also move the juvenile to a more restrictive placement or treatment program.

Rule 6.938 Final Review Hearings

(A)-(B) [Unchanged.]

(C) Appointment of Counsel. If an attorney has not been retained or appointed to represent the juvenile, the local funding unit's appointing authority~~court~~ must appoint an attorney and the court may assess the cost of providing an attorney as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(D)-(E) [Unchanged.]

Staff comment: The proposed amendments would generally shift the responsibility for appointment of counsel for an indigent defendant in a criminal proceeding to the local funding unit's appointing authority. These proposed amendments were submitted by the Michigan Indigent Defense Commission, and are intended to implement recently-approved Standard Five of the MIDC Standards.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by September 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-12. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 19, 2021

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk

GRANT NO. 2022-XX

GRANT BETWEEN
THE STATE OF MICHIGAN
MICHIGAN INDIGENT DEFENSE COMMISSION (MIDC)
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS (LARA)
AND
XXXXXX

GRANTEE/ADDRESS:

GRANTOR/ADDRESS:

Michigan Indigent Defense Commission
Department of Licensing and Regulatory Affairs
611 W. Ottawa St.
Lansing, MI 48933
517-657-3060

GRANT PERIOD:

From October 1, 2021 to September 30, 2022

TOTAL AUTHORIZED BUDGET: \$

State Grant Contribution: \$
Local Share Contribution: \$

ACCOUNTING DETAIL: Accounting Template No.:

SIGMA Vendor Code:

GRANT

This is Grant #2022-XX between the Michigan Indigent Defense Commission (Grantor), and XXXXXX (Grantee), subject to terms and conditions of this grant agreement (Agreement).

1.0 Statement of Purpose

The purpose of this Grant is to provide funding to assist the Grantee (also referred to as local funding unit) to comply with the Compliance Plan and Cost Analysis approved by the MIDC for the provision of indigent criminal defense services through the minimum standards approved by LARA on May 22, 2017 and October 29, 2020, and the process described in the Michigan Indigent Defense Commission Act (MIDC Act). The funding for this grant is contingent upon an appropriation by the Legislature that is signed by the Governor. Consistent with the MIDC Act, in the event that the funds appropriated apply to less than all of the minimum standards, the funding unit will not be required to fully comply with all of the minimum standards. In the event that an appropriation is insufficient to fully fund this grant, the amount of the grant will be reduced by the Grantor and the funding unit will not be required to fully comply with the minimum standards the original approved grant was designed to allow.

1.1 Definitions

- A. Budget means the detailed statement of estimated costs approved as the Grantee's Cost Analysis and required to implement the Compliance Plan.
- B. Budget Category means the aggregate of all funds in each of the high-level categories within the approved Cost Analysis.
- C. Compliance Plan or Plan is the plan submitted by the local funding unit and approved by the MIDC that specifically addresses how the Grantee shall meet the approved minimum standards established by the MIDC.
- D. Cost Analysis is a statement of the types of expenditures and funding necessary to bring Grantee's indigent defense system into compliance with the approved minimum standards established by the MIDC, including a statement of the funds in excess of the Grantee's local share as defined under the MIDC Act and as outlined in the Compliance Plan.
- E. MIDC Act means the Michigan Indigent Defense Commission Act, MCL 780.991 *et seq.*, as amended, enacted for the purpose of creating the Michigan Indigent Defense Commission and creating minimum standards for the local delivery of indigent criminal defense services that meet the constitutional requirements for the effective assistance of counsel.

- F. Subgrantee means a governmental agency or other legal entity to which an MIDC subgrant is awarded by the Grantee. Attorneys representing indigent defendants, including both public defenders and attorneys contracted to represent indigent defendants, public defender office employees, judges, magistrates, court personnel, and professional service contract vendors shall not be considered subgrantees.
- G. "Substantial Change" to a Compliance Plan is a change to the Plan or Cost Analysis that alters the method of meeting the objectives of the standard(s) in the approved Plan.

1.2 Statement of Work

The Grantee agrees to undertake, perform, and complete the services described in its approved Compliance Plan and in accordance with the MIDC Act, specifically Standards 1 through 5. The Parties to this Agreement enter into this Agreement to facilitate the process described in the MIDC Act, which controls or supersedes any terms of this Agreement. Consistent with the Act and when applicable, an indigent criminal defense system shall comply with the terms of this Agreement in bringing its system into compliance with the minimum standards established by the MIDC within 180 days after receiving funds from the MIDC. Grantee may exceed 180 days for compliance with a specific item needed to meet minimum standards as set forth in the Act. Grantee's Compliance Plan, as submitted and approved by the MIDC, addresses the prescribed methods Grantee has chosen to provide indigent criminal defense services pursuant to MCL 780.993(3). Any substantial changes to the work described in the Compliance Plan must be submitted to the MIDC for approval as set forth in this Agreement prior to any changes being implemented. All provisions and requirements of this Agreement shall apply to any agreements the Grantee may enter into in furtherance of its obligations under this Agreement and Grantee shall be responsible for the performance of any Subgrantee work, as defined in subsection 1.1.

1.3 Detailed Budget

- A. This Agreement does not commit the State of Michigan (State) or the Department of Licensing and Regulatory Affairs (LARA) to approve requests for additional funds at any time.
- B. If applicable, travel expenses will not be reimbursed at rates greater than the State Travel Rates, without the prior written consent of the MIDC.
- C. The Grantee agrees that all funds are to be spent as detailed in the Budget, unless a budget adjustment request is approved. See section 1.3(E).
- D. Grantee will maintain a restricted fund within their Local Chart of Accounts for the sole purpose of accounting for the expenses and revenue sources for operation of this grant and the local adult indigent defense system.

E. All requests for a budget adjustment or substantial changes to the Grantee's Compliance Plan will be submitted quarterly with the Grantee's quarterly report. MIDC staff shall respond to a request in writing within 30 days of receipt.

- 1) Budget adjustments less than or equal to 5% of the Budget Category total, including adjustments between Budget Categories, do not require approval by MIDC staff, but must be reported quarterly in the next financial status report.
- 2) A Budget adjustment involving greater than 5% of the aggregate of all funding within a Budget Category requires prior written approval by 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.
- 3) Any substantial change to a Compliance Plan requires prior approval by MIDC staff and MIDC Commission.

1.4 Payment Schedule

The maximum amount of grant assistance approved is \$_____.

Grantee must report and certify to Grantor by October 31st of each year the balance of any unexpended indigent defense grant funds from the prior fiscal year grant plus any interest earned on the advancement of the state grant funds in the previous fiscal year. Any funds from the previous fiscal year contained in an approved extension of the previous fiscal year's grant for projects that will be completed after September 30, 2021 will be carried over into the current fiscal year and shall not be considered unexpended funds, nor be included in the balance of unexpended funds. The current fiscal year indigent defense grant funds advanced will be reduced by the amount of unexpended funds from the prior fiscal year's grant by reducing the 2nd and 3rd disbursement equally. The maximum amount of grant assistance approved includes the unexpended funds reported from the previous fiscal year.

An initial advance of 25% of the State Grant shall be made to the Grantee upon receipt by the Grantor of a signed Agreement. The Grantor shall make subsequent disbursements of up to 25% of the total state grant amount in accordance with the following schedule:

Initial Advance of 25% of total grant – Within 15 days of receipt of executed agreement
25% disbursement – January 15, 2022
25% disbursement – April 15, 2022
25% disbursement – July 15, 2022 (final payment).

The above schedule of disbursement of funds is contingent upon receipt of quarterly reporting as addressed in this section and section 1.5 of this document. Any disputed matters shall not cause delay in remitting any disbursements or in issuing a grant contract and funds for the next fiscal year. Disputed matters shall be acted on independently from undisputed matters.

The financial status report (FSR) report must be submitted on the form provided by the MIDC/LARA and indicate:

- Grant funds received to date;
- Expenditures for the reporting period by budget category; and
- Cumulative expenditures to date by budget category.

The quarterly FSR must be supported and accompanied by documentation of those grant funded expenditures incurred for the reporting period, including but not limited to:

- The general ledger for the restricted local indigent defense fund, including a detailed expenditure report with all expenditure detail within the budget categories, which must include documentation of payments to contract attorneys either by individual invoice or by report of payments made, by attorney;
- All invoices related to experts and investigators;
- All invoices related to construction; and
- Personnel detail including full-time equivalency of any grant funded positions, including total compensation for that position.

Upon request, Grantee shall provide the MIDC with additional documentation/verification of expenditures under the grant within 30 days of the making of the request. Any additional documentation/verification of expenditures shall not delay issuance of a grant contract or grant disbursements. Grantee's documentation of expenditures shall be maintained according to record retention policies for audit purposes in order to comply with this Agreement. Grantee will be held to the full contribution of the Local Share within the original one-year grant period.

The quarterly FSR and standards compliance report as addressed in Section 1.5, shall be provided in accordance with the following schedule:

- Initial FSR and compliance report for 10/1/21–12/31/21 – January 31, 2022
- 2nd FSR and compliance report for 1/1/22-3/31/22 – April 30, 2022
- 3rd FSR and compliance report for 4/1/22-6/30/22 – July 31, 2022
- Final FSR and compliance report for 7/1/22-9/30/22 – October 31,2022

1.5 Monitoring and Reporting Program Performance

- A. **Monitoring.** The Grantee shall monitor performance to assure that time schedules are being met and projected work is being accomplished.
- B. **Quarterly Reports.** The Grantee shall submit to the Grantor quarterly program reports on compliance with the minimum standards and participate in follow up and evaluation activities. Compliance reports include narrative responses containing a description of the Grantee's compliance with Standards 1-5, identifying problems or delays, actual, real or anticipated and any significant deviation from the approved Compliance Plan. Grantee will use its best efforts to provide data relevant to assessing compliance as contained in the compliance reporting template

requested by MIDC. If Grantee is unable to provide the information requested by the report, Grantee will demonstrate in writing the steps taken to assess what information is currently available and how to retrieve it. Grantee also agrees to work with MIDC research staff to seek additional options or ideas for the collection and retrieval of this information.

PART II - GENERAL PROVISIONS

2.1 Project Changes

Grantee must obtain prior written approval for substantial changes to the Compliance Plan from Grantor.

2.2 Delegation

Grantee must notify the MIDC at least 90 calendar days before any proposed delegation with reasonable detail about Subgrantee and the nature and scope of the activities delegated. If any obligations under this Grant are delegated, Grantee must: (a) be the sole point of contact regarding all contractual project matters, including payment and charges for all Grant activities; (b) make all payments to the Subgrantee; and (c) incorporate the terms and conditions contained in this Grant in any subgrant with Subgrantee. Grantee remains responsible for the completion of the Grant activities and compliance with the terms of this Grant.

2.3 Program Income

To the extent that it can be determined that interest was earned on advances of funds, such interest shall be recorded in the Grantee's restricted indigent defense fund and included in the quarterly FSRs. The grant award shall not be increased by the amount of interest earned. Any grant funds attributable to interest and not spent at the end of the grant period shall be returned to the State or included in future grant awards from the MIDC consistent with MCL 780.993(15).

2.4 Share-in-Savings

Grantor expects to share in any cost savings realized by Grantee in proportion of the grant funds to the local share.

2.5 Purchase of Equipment

The purchase of equipment must be made pursuant to Grantee's established purchasing policy and if not specifically listed in the Budget, Grantee must have prior written approval of Grantor. Equipment is defined as non-expendable personal property having a useful life of more than one year. Such equipment shall be retained by Grantee unless otherwise specified at the time of approval.

2.6 Accounting

Grantee must establish and maintain a restricted indigent defense fund in its local chart of accounts to record all transactions related to the Grant. The restricted fund will not lapse to the local general fund at the close of Grantee's fiscal year. Grantee shall adhere to the Generally Accepted Accounting Principles and shall maintain records which will allow, at a minimum, for the comparison of actual outlays with budgeted amounts. Grantee's overall financial management system must ensure effective control over and accountability for all indigent defense funds received. Where Grantee uses a nonprofit entity to provide indigent defense services as contemplated in its compliance plan and cost analysis, Grantee shall ensure that the contract or agreement defining the nonprofit entities relationship allows for reasonable access, in its sole discretion, to financial records for monitoring by Grantee and its representatives. Accounting records must be supported by source documentation of expenditures including, but not limited to, balance sheets, general ledgers, payroll documents, time sheets and invoices. The expenditure of state funds shall be reported by line item and compared to the Budget.

2.7 Records Maintenance, Inspection, Examination, and Audit

Grantor or its designee may audit Grantee and the restricted indigent defense fund account to verify compliance with this Grant. Grantee must retain and provide to Grantor or its designee upon request, all financial and accounting records related to the Grant through the term of the Grant and for 7 years after the latter of termination, expiration, or final payment under this Grant or any extension ("Audit Period"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Grantee must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, Grantor and its authorized representatives or designees have the right to enter and inspect Grantee's premises or any other places where Grant activities are being performed, and examine, copy, and audit all records related to this Grant. Grantee must cooperate and provide reasonable assistance. If any financial errors have occurred, the amount in error must be reflected as a credit or debit on subsequent disbursements until the amount is paid or refunded. Any remaining balance must be reported by Grantee to Grantor by October 31 of each year as required under the MIDC Act.

This Section applies to Grantee, any parent, affiliate, or subsidiary organization of Grantee, and any subgrantee that performs Grant activities in connection with this Grant.

2.8 Competitive Bidding

Grantee agrees that all procurement transactions involving the use of state funds shall be conducted in a manner that provides maximum open and free competition, consistent with Grantee's purchasing policies. Sole source contracts should be negotiated to the extent that such negotiation is possible. Attorney contracts for representation of indigent or partially indigent defendants, and contracts for managed assigned counsel coordinators, are exempt from a competitive bid process but must meet standard internal procurement policies, as applicable.

3.0 Liability

The State is not liable for any costs incurred by Grantee before the start date or after the end date of this Agreement. Liability of the State is limited to the terms and conditions of this Agreement and the total grant amount.

3.1 Safety

Grantee and all subgrantees are responsible for ensuring that all precautions are exercised at all times for the protection of persons and property. Safety provisions of all Applicable Laws and building and construction codes shall be observed. Grantee and every subgrantee are responsible for compliance with all federal, state, and local laws and regulations in any manner affecting the work or performance of this Agreement and shall at all times carefully observe and comply with all rules, ordinances, and regulations. Grantee, and all subgrantees shall secure all necessary certificates and permits from municipal or other public authorities as may be required in connection with the performance of this Agreement.

3.2 Indemnification

Each party to the Grant must seek its own legal representation and bear its own legal costs; including judgments, in any litigation which may arise from the performance of this Grant and/or Agreement. It is specifically understood and agreed that neither party will indemnify the other party in any such litigation.

3.3 Failure to Comply and Termination

- A. Failure to comply with duties and obligations under the grant program as set forth in MCL 780.981, *et seq.*, as amended, is subject to the procedures contained in sections 15 and 17 of the Act.
- B. Termination for Convenience

Grantor may immediately terminate this Grant in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. If Grantor terminates this Grant for convenience, Grantor will pay all reasonable costs for approved Grant responsibilities. If the parties cannot agree to the cost to be paid by , the parties shall attempt to resolve the dispute by mediation pursuant to MCL 780.995. Grantee's duty to comply with MIDC standards is limited to funding covering the cost of compliance as set forth in the Act.

3.4 Conflicts and Ethics

Grantee will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Grant; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Grant; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Grantee, any consideration contingent upon the award of the Grant. Grantee must immediately notify Grantor of any violation or potential violation of this Section. This Section applies to Grantee, any parent, affiliate, or subsidiary organization of Grantee, and any subgrantee that performs Grant activities in connection with this Grant.

3.5 Non-Discrimination

Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 to 37.2804, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., Grantee and its subgrantees agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Grant.

3.6 Unfair Labor Practices

Under MCL 423.324, the State may void any Grant with a grantee or subgrantee who appears on the Unfair Labor Practice register compiled under MCL 423.322.

3.7 Force Majeure

Neither party will be in breach of this Grant because of any failure arising from any disaster or act of God that are beyond its control and without its fault or negligence. Each party will use commercially reasonable efforts to resume performance. Grantee will not be relieved of a breach or delay caused by its subgrantees except where the MIDC determines that an unforeseeable condition prohibits timely compliance pursuant to MCL 780.993, Sec. 13(11).

4.0 Certification Regarding Debarment

Grantee certifies, by signature to this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any federal or state department or agency. If Grantee is unable to certify to any portion of this statement, Grantee shall attach an explanation to this Agreement.

4.1 Illegal Influence

Grantee certifies, to the best of its knowledge and belief that:

- A. No federal appropriated funds have been paid nor will be paid, by or on behalf of Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this grant, the Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. Grantee shall require that the language of this certification be included in the award documents for all grants or subcontracts and that all subrecipients shall certify and disclose accordingly.

The State has relied upon this certification as a material representation. Submission of this certification is a prerequisite for entering into this Agreement imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Grantee certifies, to the best of its knowledge and belief that no state funds have been paid nor will be paid, by or on behalf of Grantee, to any person for influencing or attempting to influence an officer or employee of any state agency, a member of the Legislature, or an employee of a member of the Legislature in connection with the awarding of any state contract, the making of any state grant, the making of any state loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state contract, grant, loan or cooperative agreement.

4.2 Governing Law

This Grant is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles. All claims relating to, or arising out of, this Grant are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Grant must be resolved as outlined in Sec. 15 of PA93 of 2013, as amended.

4.3 Disclosure of Litigation or Other Proceeding

Grantee must notify Grantor within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively Proceeding) that arises during the term of the Grant against a public defender office, an attorney employed by a public defender office, or an attorney contracted to perform indigent defense functions funded by the Grantee that involves: (a) a criminal Proceeding; (b) a civil Proceeding involving a claim that, after consideration of Grantee's insurance coverages, would adversely affect Grantee's viability; (c) a civil Proceeding involving a governmental or public entity's claim or written allegation of fraud related to performance of the Grant; or (d) a Proceeding challenging any license that an attorney practicing on behalf of a public defender office or an attorney practicing pursuant to a contract to perform indigent defense functions for Grantee is required to possess in order to perform under this Grant.

4.4 Assignment

Grantee may not assign this Grant to any other party without the prior approval of Grantor. Upon notice to Grantee, Grantor, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Grant to any other party. If Grantor determines that a novation of the Grant to a third party is necessary, Grantee will agree to the novation, provide all necessary documentation and signatures, and continue to perform its obligations under the Grant.

4.5 Entire Grant and Modification

This Grant is the entire agreement and replaces all previous agreements between the parties for the Grant activities. Pursuant to the MIDC Act, the MIDC shall promulgate policies necessary to carry out its powers and duties. The MIDC may also provide guides, instructions, informational pamphlets for the purpose of providing guidance and information with regard to the Grant and MIDC policies. This Agreement supersedes all terms of MIDC policies, guides, instructions, informational pamphlets and any other explanatory material that is in conflict with the Agreement. This Agreement may not be amended except by a signed written agreement between the parties.

4.6 Grantee Relationship

Grantee assumes all rights, obligations, and liabilities set forth in this Grant. Grantee, its employees, and its agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Grant. Grantee, and not Grantor or the State of Michigan, is responsible for the payment of wages, benefits, and taxes of Grantee's employees. Prior performance does not modify Grantee's status as an independent grantee.

4.7 Dispute Resolution

The parties will endeavor to resolve any Grant dispute in accordance with section 15 of MCL 780.995. The dispute will be referred to the parties' respective representatives or program managers. Such referral must include a description of the issues and all supporting

documentation. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance or performance would require Grantee to spend in excess of the Local Share as defined by MCL 780.983(h).

5.0 Severability

If any part of this Grant is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Grant and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Grant will continue in full force and effect.

5.1 Signatories

The signatories warrant that they are empowered to enter into this Agreement and agree to be bound by it.

Bureau of Finance and Administrative Services
Department of Licensing and Regulatory Affairs
State of Michigan

Date

Loren Khogali, Executive Director
Michigan Indigent Defense Commission
Department of Licensing and Regulatory Affairs
State of Michigan

Date

Representative
Funding Unit

Date

GRANT NO. 2022-XX



MICHIGAN INDIGENT
DEFENSE COMMISSION

Compliance Resolution Process

I. INTRODUCTION

This internal Compliance Resolution Process was created to provide a means to identify and resolve compliance issues with the MIDC Act and Standards. This process will allow MIDC staff to track compliance issues and includes a procedure to escalate issues for resolution. It also outlines the mechanism for informing the MIDC Commission of noncompliance matters and identifying when Commission action is necessary.

II. AUTHORITY

The MIDC Act authorizes the Commission to “establish procedures for the conduct of its affairs and promulgate policies necessary to carry out powers and duties under this act.” MCL 780.989(5). The Act also requires the Commission to propose minimum standards for local delivery of indigent criminal defense services and identify and encourage best practices for effective assistance of counsel. MCL 780.985(3) and (6).

The Commission is also authorized to perform a number of duties related to those standards and best practices, including hiring an executive director. MCL 780.989(d). The Commission can assign specific duties to the executive director, including duties that would assist the Commission in developing, implementing and reviewing proposed standards, rules and procedures. MCL 780.989(d)(ii). In turn, the executive director is tasked with reporting back to the Commission so that they may make fully informed decisions regarding those standards moving forward.

With these controlling principles, the MIDC establishes the following internal Compliance Resolution Process:

III. COMPLIANCE RESOLUTION PROCESS

A. Compliance Issue Identified

Regional Managers and staff will monitor indigent defense systems, courts, stakeholders, data, and reports to assess compliance with the MIDC Act and Standards. If a Regional Manager or staff member identifies an issue with compliance, this resolution process is triggered.

The process will be initiated by the assigned Regional Manager for the system, with the approval of the Regional Manager's supervisor.

Examples of noncompliance include, but are not limited to, the following:

- An issue that was resolved, but reoccurs
- Noncompliance with one or more Standards
- Noncompliance with the contract terms, compliance plan, or cost analysis
- Discrepancies between data, observations, and anecdotal information gathered
- Any other impediments to compliance.

B. Notice to Indigent Defense System

A letter will be sent via email to the Indigent Defense System's grant authorizing official outlining the area(s) of noncompliance and explaining the resolution process and timeline. This letter will include citations to the applicable Standards, statutes, grant manual, or other authority sufficient to explain the noncompliance issue(s). Additionally, the letter will include directions for the system regarding how and when to respond to the notice.

C. Process Timeline

The Indigent Defense System shall respond within 15 days of the emailed notification indicating receipt of the notice and provide an initial response to the area(s) of noncompliance referenced in the notice.

After receiving the initial response from the Indigent Defense System, the Regional Manager shall set a deadline for compliance. This deadline will be in 30-day increments based on the discretion of the Regional Manager and the complexities of the issue(s) involved. The Regional Manager will have the discretion to extend the deadline if appropriate progress is being made and reported.

If all issues are resolved, the Regional Manager shall, after supervisor approval, report the issue as resolved and notify all parties. If the issue(s) are not resolved within the timeline, the Regional Manager shall notify the supervisor for further action.

The Regional Managers will provide their supervisor with monthly compliance issue updates at the first Regional Manager Meeting of each month. The Regional Manager Supervisor shall report all outstanding compliance issues to the Executive Director monthly.

The Commission will be given an update on compliance issues at every Commission meeting. This update will include (1) informational items, such as status updates regarding ongoing resolution of issues, and (2) items that require action by the Commission, such as issues that cannot be resolved as determined by the Regional Manager and approved by senior staff.

D. Tracking

Compliance resolution issues will be tracked in a shared internal database. Each Regional Manager will be responsible for tracking and updating the database for all compliance issues within their region. The database will include dates, contacts, and compliance issues. A standardized method of data collection will be implemented to allow for easy access and searchability of the data for all systems.

To: Michigan Indigent Defense Commission

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

Re: FY21 overview and FY22 recommendations by Staff

Date: June 8, 2021

I. FY21 Compliance Funding Distribution Update; Q1 Reporting and adjustments

A. Overview

As of the April 2021 meeting, all **120 systems have had their plans and cost analyses approved**, contracts have been distributed to those systems, and all systems with fully executive contracts have received multiple distributions of funding unless the distribution exceeded the funds on deposit with the system.

All FY21 contracts have been returned except for the contract to D-22 – Inkster (sent on 5/24/2021).

	MIDC Funding	Local Share	Total System Costs
FY 2019	\$86,722,179.85	\$37,963,396.67 ¹	\$124,685,576.52
FY 2020	\$117,424,880.47	\$38,523,883.90	\$157,698,982.46
FY 2021	\$126,743,000.64	\$38,486,171.32	\$165,229,171.96

1. System reporting - progress towards compliance

Staff received the second quarter of reporting from systems for FY21 (covering January 1, 2021 – March 31, 2021) at the end of April. The reporting is composed of:

- A **program report**, detailing the progress towards compliance with the approved plan. All program reports are currently submitted online

¹ The annual inflationary increase described in MCL 780.983(i) are calculated from the FY2019 local share.

through a survey-type of system for ease in submitting, receiving, and organizing the information provided.

- A **financial status report**, in the format approved by the Commission, to provide information regarding the spending on indigent defense between January 1, 2021 – March 31, 2021.
- A **budget adjustment request**, if applicable, to accommodate necessary changes to the line items without exceeding the approved total grant award;
- A **list of attorneys** providing services in the system, including full name and P#, to track progress on continuing legal education.

The MIDC staff worked to simplify the reporting process and created a series of short web-based tutorials to provide systems with guidance on completing the necessary reporting documents. The tutorials, along with a number of resources for reporting, can be found on our grants page, at www.michiganidc.gov/grants.

2. Changes and adjustments to approved plans and/or cost analysis

a. Budget adjustments – **information item**

1) The Grant Manager processed the following **budget adjustment requests** pursuant to the process set forth in the MIDC's [Grant Manual](#) at p. 26 (June 2020) and the MIDC's actions on the related plan change requests at the February 2021 meeting:

- [Approved budget adjustments](#)

- Berrien County
- Cass County
- Charlevoix County
- Clair County
- D 16 - Livonia
- D 34 – Romulus
- D 39 – Roseville/Fraser
- D 51 – Waterford
- Gogebic County
- Lake County
- Livingston County

- Monroe County
- Oakland County (two adjustments)
- Osceola County
- Saginaw County
- St. Clair County
- Wayne County (partial)
- Wexford County
- **Denied budget adjustments**
 - [D 29 – City of Wayne](#) (21 hrs per week for a “zoom coordinator” in addition to part time ancillary funded position was denied as unnecessary).
 - [Kalamazoo County](#) (denied for multiple reasons including that system was seeking additional funding for resources and salaries without an explanation as to why existing funding was inadequate to cover expenses).

II. FY22 Compliance Planning, Submissions, and Recommendations

A. Overview

Statutory authority MCL §780.993 (as amended with emphasis December 2018):

(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. FY22 Submissions

Staff hosted several webinars for compliance planning as well as training for the MIDC's new grant management system and made recordings of the webinars available on our YouTube page and our website along with the forms and relevant documents for submission. The MIDC staff **expected to receive a total of 120 compliance plans** and cost analyses from funding units for FY22. The dates of submission are tracked closely by staff to ensure compliance with the statutory timelines for review by the Commission.

1. Committee Work

- a. **Committee Description: 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.

Committee members –

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

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

Committee members –

- William Swor (Chair)
- Jeffrey Collins
- David W. Jones

- c. **Committee Description: 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.

Committee members –

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

- d. **Committee: Selection Standards** - Reviewing novel issues regarding compliance with Standard 5.

Committee members –

- John Shea (Chair)
- Jeffrey Collins
- James Krizan
- Gary Walker
- Margaret McAvoy

2. Review of FY22 Compliance Plans and Cost Analyses

a. Substantive Review of Resubmissions – Action Requested

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

Staff Recommendation:

Disapprove Compliance Plan, Disapprove Cost Analysis

Failure to submit compliance plan and cost analysis:

1. Alcona County
2. Alpena County
3. Oakland County
4. Montmorency County
5. St. Joseph County

Recommended denial on the merits of the submissions:

Incomplete/Additional Information Required Regarding Meeting Objectives of the Standards

6. Branch County

FY21 Total system cost approved: \$643,176.00

FY22 Total system cost requested: \$1,067,588.82

Public Defender Office; significant additional information is required to clarify meeting the objectives of Standards 2, 4 and 5, particularly in terms of caseload clarification. Additional funding is sought for clerical staff at the defender office, budget for experts/investigators including in conflict cases, and overspending in FY21.

7. Chippewa County

FY21 Total system cost approved: \$513,994.30

FY22 Total system cost requested: \$624,599.17

Public defender office appears to be seeking addition of a conflict attorney manager, but the application is missing detail regarding meeting the objectives for several standards and the cost analysis is unclear for several categories of spending.

8. Crawford County

FY21 Total system cost approved: \$316,295.80

FY22 Total system cost requested: \$422,129.08

Managed assigned counsel system will seek addition of an attorney administrator independent from the court system. There are many details missing from the plan needed to assess compliance and significant additional detail is required in the cost analysis for further review.

9. D 25 - City of Lincoln Park (covers River Rouge and Ecorse)

FY21 Total system cost approved: \$500,380.11

FY22 Total system cost requested: \$434,473.85

Managed assigned counsel system moving from a full time MAC Administrator to part time and coordinating approval of experts and investigators with the Wayne County Regional Office detailed below. Additional information is required to assess compliance with Standards 1, 2 and 4, and the cost analysis requires support for funding for ancillary spending that was previously approved for a position that was never filled.

10. D 32a - City of Harper Woods

FY21 Total system cost approved: \$221,006.72

FY22 Total system cost requested: \$308,158.77

House counsel/assigned counsel system seeking to add a civil litigation firm as the managed assigned counsel coordinator at \$350/hr. Additional details regarding compliance with Standards 1, 2, 4 and 5 are required for analysis; costs include increases for attorneys and requires detail for support and previously purchased equipment should be deleted.

11. D 37 - Cities of Warren and Centerline

FY21 Total system cost approved: \$1,047,942.60

FY22 Total system cost requested: \$945,533.47

Managed assigned counsel system was approved through a plan change request in 2021; clarification is required for compliance with Standards 1, 2, 3, 4 and particularly independence from the judiciary; several concerns in cost analysis including funding for attorneys that does not track spending projections.

12. Grosse Pointe Woods

FY21 Total system cost approved: \$45,375.00

FY22 Total system cost requested: \$65,750.00

Assigned counsel system seeks to add a managed assigned counsel coordinator; many incomplete answers in plan and missing information from the cost analysis.

13. Mackinac County

FY21 Total system cost approved: \$199,707.56

FY22 Total system cost requested: \$200,174.51

Contract Defender System w/ Lead Attorney & MIDC Plan Administrator; the compliance plan is missing information about many standards and the cost analysis requires significant revision to provide analysis.

14. Menominee County

FY21 Total system cost approved: \$703,571.00

FY22 Total system cost requested: \$647,499.20

Public defender office (nonprofit model) approved in FY21 but not yet implemented; significant detail is required to assess compliance with standards including independence from judiciary; cost analysis requires clarification and/or revisions.

15. Wexford and Missaukee Counties

FY21 Total system cost approved: \$998,590.32

FY22 Total system cost requested: \$1,135,833.03

Regional public defender office with managed assigned counsel administrator for assignments to conflict counsel. Clarification needed regarding Standards 1, 2, 4 is required and support/clarification regarding several increases in cost analysis are requested.

Failure to meet the objectives of Standard 5 – Independence from the Judiciary or issues related to Standard 5 implementation

16. D 18 - City of Westland

FY21 Total system cost approved: \$447,280.00

FY22 Total system cost requested: \$594,035.00

Assigned counsel system will use Wayne County District Court Regional Office for experts and investigator assignments; plan, however, refers to court making assignments, attorney supervision and appeals are to non-attorneys; missing details regarding review process.

17. D 44- City of Royal Oak

FY21 Total system cost approved: \$638,042.32

FY22 Total system cost requested: \$620,700.00

Managed assigned counsel system, however, the plan says that a non-attorney is part of the selection committee who decides which attorneys are on the list. This same person also approves attorney, expert, and investigator billing.

18. D 47 - City of Farmington

FY21 Total system cost approved: \$187,828.22

FY22 Total system cost requested: \$355,746.37

Managed assigned counsel system seeking to hire a non-attorney coordinator for day-to-day responsibilities including selecting attorneys for assignment, appeals of MAC decisions are to be made to a panel of attorneys paid to meet periodically for this review; the plan does not have sufficient involvement and oversight by the MAC; cost analysis requires significant revision or detail in many categories.

19. D 61 - City of Grand Rapids

FY21 Total system cost approved: \$655,510.00

FY22 Total system cost requested: \$867,358.34

Assigned counsel system using an indigent defense coordinator for selection, assignments and supervision of attorneys who is not an attorney and appeals of decisions made by the coordinator or neighboring review partner is made to a non-attorney.

20. D 62A - City of Wyoming (also covers Grandville, Walker, Kentwood)

FY21 Total system cost approved: \$647,885.74

FY22 Total system cost requested: \$809,851.55

This system contracts with the Kent County Office of the Defender and a roster of attorneys for conflict cases. Selection of attorneys includes judicial input; the cost analysis requires clarification regarding increase for attorney fees; also includes a significant construction project including funds to relocate city attorneys.

21. Eaton County

FY21 Total system cost approved: \$2,085,798.00

FY22 Total system cost requested: \$2,121,676.83

Public defender office and managed assigned counsel system; process for selection of attorneys and review of decisions must be clarified in detail and revised in the plan and reference to review by MIDC regional manager must be removed; cost analysis requires support for increase to attorney fees and expert and investigator funding as well as miscellaneous items in the contracts category of spending.

22. Iron County

FY21 Total system cost approved: \$619,053.86

FY22 Total system cost requested: \$606,707.09

Public defender office (nonprofit model) with a conflict attorney administrator; missing or incomplete information for compliance with Standard 5 including payments to counsel; ancillary spending should be deleted or clarified and travel and training must be revised.

23. Lenawee County

FY21 Total system cost approved: \$1,391,202.72

FY22 Total system cost requested: \$5,055,159.85

Public defender office with managed assigned counsel administrator for conflict cases. Clarification and detail is required regarding selection of attorneys and assignment process; cost analysis requires support for new full time corrections staff and significant (+\$3,327,070) request to completely renovate PD office requires more information.

24. Ontonagon County

FY21 Total system cost approved: \$162,911.00

FY22 Total system cost requested: \$196,837.31

Assigned counsel system will become a managed assigned counsel system; questions in the compliance plan regarding resolution of conflicts in assignments, billing, and expert and investigative assistance were not answered and require detail for analysis.

Other Concerns Related to MIDC Standards Implementation through the Compliance Plan

25. Charlevoix County

FY21 Total system cost approved: \$514,125.60

FY22 Total system cost requested: \$600,462.54

System proposes moving from a contract defender model to a hybrid single-attorney PD office (county employee) combined with 3 contract attorneys. Significant additional detail is required regarding caseloads and assignments through Standards 4 and 5; clarification or documentation in spending in several categories is required including ancillary spending, experts and investigators, supplies and travel.

26. D 36 - City of Detroit

FY21 Total system cost approved: \$8,323,170.00

FY22 Total system cost requested: \$8,857,176.97

Assigned counsel and contract defender system with an indigent defense coordinator for services. Clarification regarding selection and assignment process for Standard 2 and services for Standard 4 are required for analysis; detail supporting raises for personnel are requested; costs for attorneys do not track projected spending and require further detail; documentation to support ancillary spending request is required for analysis.

27. D 39 – Cities of Roseville and Fraser

FY21 Total system cost approved: \$796,130.54

FY22 Total system cost requested: \$823,716.20

Assigned counsel system moving to a managed assigned counsel system. There is missing and incomplete information in the plan for Standard 2 regarding meeting space and the ancillary position's job description and duties; in the cost analysis the system seeks \$25,000 to pay the Macomb

County Jail a \$10 per inmate fee for facilitating arraignments. This fee, however, has been in effect since 2004 and does not appear to be related to the Standards.

28. D 40 - City of St Clair Shores

FY21 Total system cost approved: \$534,636.91

FY22 Total system cost requested: \$493,136.01

Managed assigned counsel system with a MAC who is also a part-time judge. Clarification is required regarding compliance with Standards 2, 3 and 5. System requesting funds to have current MAC train new MAC and to have current MAC prepare FY23 plan and cost analysis; additional information about MIDC clerk and MAC duties needed.

29. D 41-a-2 - Charter Township of Shelby

FY21 Total system cost approved: \$378,519.45

FY22 Total system cost requested: \$258,950.00

Assigned counsel system will contract with Macomb County Public Defender Office to provide MAC support and limited representation services; additional information is required to determine assignment process and attorney fee schedule under Standards 2 and 4.

30. D 41-b - Clinton Township

FY21 Total system cost approved: \$464,280.86

FY22 Total system cost requested: \$610,750.00

Managed assigned counsel system will continue. Plan needs clarification and additional information concerning Standards 1 and 3; requested attorney fees in cost analysis do not track with current spending even when adjusted for proposed fee schedule increase.

31. D 43-1 City of Hazel Park

FY21 Total system cost approved: \$848,276.56

FY22 Total system cost requested: \$958,235.41

Managed assigned counsel system will continue. Plan needs corrections concerning non-attorney deciding expert requests and clarification about the appeal process for MAC decisions; cost analysis contains MAC team compensation increase, supplanting, and employees that were reduced/eliminated in FY21 without accompanying time study to support increase/insertion of these employees into budget.

32. D 43-2 City of Ferndale

FY21 Total system cost approved: \$551,357.44

FY22 Total system cost requested: \$559,599.19

Managed assigned counsel system will continue. Plan needs additional information about Standard 2 and 3; increased funding request for MAC needs support; method for compensating MAC needs clarification; cost analysis appears to contain incorrect information about fringe benefits.

33. D 43-3 City of Madison Heights

FY21 Total system cost approved: \$558,888.92

FY22 Total system cost requested: \$555,606.18

Managed assigned counsel system will continue. Plan needs corrections concerning non-attorney deciding expert requests and reviewing hourly billing and clarification about the appeal process for MAC decisions; cost analysis needs support for MAC team's compensation increase and the continued need for significant ancillary support; additionally, the requested attorney fees amount does not track with historical spending.

34. Delta County

FY21 Total system cost approved: \$585,443.54

FY22 Total system cost requested: \$741,920.75

Contract defender system with a lead attorney responsible for many plan components; clarification is required for Standards 1 and 5; the plan and cost analysis seeks to increase hourly rate of funding to attorneys for initial interviews from \$100/hr (misdemeanors) to \$120/hr and for other felonies to \$125/hr; cost analysis also includes a request for \$22,000.00 for materials and labor to construct new confidential meeting space in the courthouse for use by attorneys and their in-custody clients.

35. Dickinson County

FY21 Total system cost approved: \$541,144.46

FY22 Total system cost requested: \$572,946.43

Assigned counsel system moving to a managed assigned counsel system. There is missing and incomplete information in the plan for Standards 2 and 4; detail is required for personnel and minor corrections to the cost analysis are requested.

36. Emmet County

FY21 Total system cost approved: \$446,636.00

FY22 Total system cost requested: \$501,187.01

Contract defender system will move to a managed assigned counsel system with an attorney administrator. Additional detail is required for Standards 1, 2 and 3; equipment purchases must be clarified and revisions to supplies and travel are requested.

37. Hillsdale County

FY21 Total system cost approved: \$407,313.37

FY22 Total system cost requested: \$386,408.25

Managed assigned counsel system; reduced jail officer time from 40 hrs to 25 hrs/wk; reduced equipment from prior year; no change to line items for attorney pay but rate change from \$100/hr to \$75/100/125 for misdemeanor, non-capital felony, capital felony cases as described in plan for Standards 2 and 4.

38. Houghton, Baraga and Keweenaw Counties

FY21 Total system cost approved: \$700,178.20

FY22 Total system cost requested: \$780,342.00

Public defender office (nonprofit model) will add a managed assigned counsel administrator for conflict cases; detail is required to ensure compliance with Standard 2; the cost analysis needs clarification on staff raises, payments for prisoner cases; travel and training and supplies require further detail.

39. Jackson County

FY21 Total system cost approved: \$3,522,431.66

FY22 Total system cost requested: \$4,175,035.50

Public defender office and managed assigned counsel system; clarification is requested regarding process for compliance with Standard 2; significant increases for additions to PD staff (+\$490,000) and contractual attorneys (+\$300,000) and additional information regarding projected spending is requested for analysis; expansion of construction project in courthouse space being modified in FY21 (+\$80,437) is requested here to accommodate additional staff sought in FY22.

40. Kalamazoo County

FY21 Total system cost approved: \$4,312,698.16

FY22 Total system cost requested: \$4,800,784.00

Public defender office (vendor model); a plan for expert and investigative resources under Standard 3 is required for all adult indigent defendants charged with crimes who are not represented by the defender office; clarification in the vendor cost analysis is requested for several categories including increases to staff and contract attorney payments, supplies, services, travel, training and equipment.

41. Macomb County

FY21 Total system cost approved: \$7,556,919.62

FY22 Total system cost requested: \$9,278,760.58

Public defender office with a roster for conflict attorneys. Plan and cost analysis contain a significant request (+\$987,575.00) for construction for the PD office; cost analysis contains additional employee that is not actually being requested; and attorney fee schedule for roster attorneys has not been submitted.

42. Marquette County

FY21 Total system cost approved: \$1,098,460.19

FY22 Total system cost requested: \$1,232,350.71

Public defender office responsible for all assignments including conflict counsel and requests for investigative and expert assistance in conflict cases; additional information is required to assess compliance with Standards 2 and 4; clarification regarding payments and reimbursement in prison cases is requested.

43. Otsego County

FY21 Total system cost approved: \$352,745.09

FY22 Total system cost requested: \$372,193.54

Contract defender system with an attorney administrator who reviews and approves attorney invoices and reviews and approves requests for expert and investigative assistance. Clarification is required for compliance with Standards 2, 4 and 5; cost analysis requires clarification or revisions for processing fees associated with assignments and other minor corrections.

44. Presque Isle County

FY21 Total system cost approved: \$218,468.51

FY22 Total system cost requested: \$202,246.59

Contract defender system will add an attorney administrator for FY22; clarification is required to assess compliance for Standards 3 and 5; cost analysis requires clarification or revision of rates and quantities for hours, supplies, and services.

45. Wayne County

FY21 Total system cost approved: \$31,259,985.16

FY22 Total system cost requested: \$50,701,870.11

The Office of Public Defense Services (MAC system) oversees the public defender office and assigned counsel roster system; system is seeking significant increase (62.19% or \$19,441,885.00) with \$3,847,899.40 of that request in the NDS (PD Office) budget, which represents a 46.75% increase for a 10% increase in caseload. Additional information is needed regarding NDS personnel breakdown (not itemized in EGrAMS); the overall increase to the NDS budget; the methodology utilized in the new assigned counsel calculations; the lack of a reduction in expert/investigator funds when only 8.7% has been spent in the first two quarters of FY21 and other areas to analyze the request. Additionally, the technology costs associated with the CJC (\$253,245.08) need to be deleted from the cost analysis.

Staff Recommendation:

Approve Compliance Plan, Disapprove Cost Analysis

Requested costs (same or increase) are significantly different from tracked spending or caseload information

46. D 28 - City of Southgate

FY21 Total system cost approved: \$186,265.04

FY22 Total system cost requested: \$253,458.91

Assigned Counsel System / House Counsel system will participate in Wayne County District Court Regional Office (detailed below) for standards 1, 3 and 5; significant increase to personnel for fringe benefits requires detail; significant increase to contractual attorney payments without explanation and

does not track projected spending. Cost analysis should be revised to track some spending through regional office.

47. D 38 - City of Eastpointe

FY21 Total system cost approved: \$469,842.12

FY22 Total system cost requested: \$808,996.15

Managed assigned counsel system seeking to increase attorney fees by \$345,400; additional caseload and spending information is required to support request.

48. Midland County

FY21 Total system cost approved: \$489,927.25

FY22 Total system cost requested: \$598,748.60

System will shift from an hourly paid contract w/ MAC manager who is a member of the panel to a full time MAC manager (county employee) who also has primary responsibility for arraignments. Clarification regarding increase in contractual attorney fees is required including coverage for arraignments.

49. Tuscola County

FY21 Total system cost approved: \$1,138,982.00

FY22 Total system cost requested: \$1,408,556.44

Managed assigned counsel system with hourly pay for roster of attorneys; significant increase to contract attorney payments (+\$258,395) requires detail/formula for request.

50. Washtenaw County

FY21 Total system cost approved: \$6,050,067.42

FY22 Total system cost requested: \$6,906,041.32

Public defender office with MAC administrator for conflict cases; system is seeking significant increase (+\$1,195,434,12) to personnel, additional information regarding tracked or projected spending is required to analyze the request.

Miscellaneous cost analysis concerns

51. Alger County

FY21 Total system cost approved: \$429,084.71

FY22 Total system cost requested: \$458,825.90

Public defender office seeking to add a MAC for conflict administration; additional information is required regarding salaries, correction's staff hours, cost allocation formula; clarification/detail regarding (new) contract social worker duties is requested as well.

52. D 17 – Township of Redford

FY21 Total system cost approved: \$211,431.17

FY22 Total system cost requested: \$301,469.40

Assigned counsel system will participate in Wayne County District Court regional office detailed below. Cost analysis should be revised for clarification in spending and include reimbursement for FY21.

53. D 29 - City of Wayne

FY21 Total system cost approved: \$179,204.94

FY22 Total system cost requested: \$195,910.98

Contract defender system will participate in Wayne County District Court Regional Office (detailed below) for Standards 1, 3 and 5; system continues to seek has funding for a part time court officer and should remove (new) "Zoom Coordinator" position; detail is needed to justify added attorney hours and coverage for contract attorneys to cover expungements should be removed; cost analysis should be revised to track some spending through regional office.

54. D 45 - City of Oak Park

FY21 Total system cost approved: \$449,850.00

FY22 Total system cost requested: \$449,850.00

Managed assigned counsel system; clarification is required for MAC payment structure (hourly vs. monthly rate).

55. Ogemaw County

FY21 Total system cost approved: \$608,093.00

FY22 Total system cost requested: \$838,846.90

System currently uses a flat-rate contract with MAC supervision but will shift to a hybrid contract system with MAC supervision minimum monthly payment and hourly pay after average monthly hours exceeded; substantial increase in attorney fees in order to implement hybrid system with added hours for MAC and clerical support (+\$220,189) that includes math errors and potentially duplicative payments requiring revisions.

56. Saginaw County

FY21 Total system cost approved: \$3,795,287.00

FY22 Total system cost requested: \$5,297,009.51

Non-profit PD and MAC assigned counsel (hourly); Substantial increase in MAC attorney hours (\$485,740) requires breakdown showing basis/formula for increase; some details of PD Office budget require additional detail; ICLE membership needs to be deleted. Construction project (\$86,605) needs to be examined and clarified. Malpractice insurance needs to be evaluated. Need clarification of balance of funds on deposit with vendor.

Staff Recommendation:

Approve Compliance Plan, Approve Cost Analysis

No change at all to plan; same or decreases to costs, and/or on track with spending

57. Clinton County

FY21 Total system cost approved: \$1,404,249.81

FY22 Total system cost requested: \$1,301,496.57

Regional managed assigned counsel system (shared with Gratiot County); minor decreases in salary for administrative assistant and expert fees; minor increase in travel/training.

58. D 46 - City of Southfield

FY21 Total system cost approved: \$579,952.00

FY22 Total system cost requested: \$573,700.00

Managed assigned counsel system; minor increase for contractual attorneys (\$10,000) to cover PSI attendance and show cause reviews; reduction in supplies/equipment from prior year.

59. D 50 - City of Pontiac

FY21 Total system cost approved: \$660,703.69

FY22 Total system cost requested: \$620,980.26

Managed assigned counsel system; reduced court officer time (from 2 part time positions to 1 part time position with reduced hours) to facilitate Standard 2; reduced equipment request from prior year; minor (\$5,000) increase to MAC Administrator pay based on review of hours through a time study.

60. Lapeer County

FY21 Total system cost approved: \$850,016.00

FY22 Total system cost requested: \$735,700.00

Managed assigned counsel system; reduced attorney fees and experts needs; reduced its training costs because it is now part of the Macomb CDAM unlimited plan.

No change, COLA or similar is the only increase, on track to spend prior year

61. Arenac County

FY21 Total system cost approved: \$256,678.28

FY22 Total system cost requested: \$256,863.83

Managed assigned counsel system with hourly pay for panel of attorneys; minor adjustment to training/travel budget.

62. Barry County

FY21 Total system cost approved: \$911,597.41

FY22 Total system cost requested: \$824,445.68

Public Defender Office/hybrid delivery system with contract attorneys; FY21 construction project has concluded; increase to personnel, fringe benefits, and contract attorneys for COLA and other step increases; minor increase to training for additional conference registration.

63. D 48 - City of Birmingham

FY21 Total system cost approved: \$531,500.00

FY22 Total system cost requested: \$532,550.04

Managed assigned counsel system moving from court to city supervision; minor adjustment to training/travel budget.

64. Gratiot County

FY21 Total system cost approved: \$757,347.36

FY22 Total system cost requested: \$761,551.36

Regional managed assigned counsel system (shared with Clinton County); Small COLA increase or adjustments in personnel/fringe; increase to training subscriptions; minor decrease from previous equipment request.

65. Huron County

FY21 Total system cost approved: \$644,827.26

FY22 Total system cost requested: \$655,826.26

Managed assigned counsel system with hourly pay for roster of attorneys; MAC hourly rate increased from \$65/hr to \$80/hr; minor training increases for registration and memberships; minor decrease from previous equipment request.

66. Schoolcraft County

FY21 Total system cost approved: \$234,547.70

FY22 Total system cost requested: \$238,858.60

Managed assigned counsel system; increase in pay for primary contract counsel (\$2,800.00); minor increases to travel and training including memberships, skills training for a new lawyer.

No change to compliance plan, minor (less than 5%) increases including those based on demonstrated need and/or standards implementation

67. Allegan and Van Buren Counties

FY21 Total system cost approved: \$2,650,305.00

FY22 Total system cost requested: \$2,662,839.98

Regional Public Defender Office; FY21 construction project and one time equipment purchases have been completed; \$58,084 increase to attorney salaries/fees for step and COLA increases and introduction of weekend arraignments.

68. Antrim County

FY21 Total system cost approved: \$255,891.40

FY22 Total system cost requested: \$262,158.40

Managed assigned counsel system; decrease to contracts for attorneys (\$7,400.00) increase to Experts and Investigators (by \$12,500.00) based on need and usage; minor increases to travel and training.

69. Cass County

FY21 Total system cost approved: \$473,540.80

FY22 Total system cost requested: \$496,769.00

Contract system with a MAC Administrator; significant backlog of felony and misdemeanor cases set for trial; system reduced personnel (by \$16,640 plus fringes) and is requesting a \$40,000 increase primarily to contract attorneys in order to address the backlog and related expenses.

70. Ionia County

FY21 Total system cost approved: \$543,453.64

FY22 Total system cost requested: \$566,839.14

Public defender office will increase part time social worker to full time (\$39,936 plus fringes); reduction in ancillary spending for corrections; reduction in contractual/conflict attorney spending based on projected need.

71. Livingston County

FY21 Total system cost approved: \$2,266,080.00

FY22 Total system cost requested: \$2,320,369.87

Public defender office and managed assigned counsel system; COLA and step increases for staff and addition of a new Social Worker position (+\$60,851); significant decrease to contract attorney funding because PD office is taking more cases; minor soundproofing project included for confidential space; minor increase to travel and training; equipment purchased in prior year removed from current budget.

72. Montcalm County

FY21 Total system cost approved: \$914,421.13

FY22 Total system cost requested: \$941,961.11

Managed assigned counsel system; step increases for MAC & administrative assistant; increase to contract attorney budget (by \$75,000) due to the anticipated increase in attorney fees once jury trials resume; additional \$5,000

for investigators based on anticipated need; minor increase in supplies and postage based on current expenditures.

73. Muskegon County

FY21 Total system cost approved: \$2,959,506.88

FY22 Total system cost requested: \$3,031,740.11

Public defender office with MAC administrator for conflict cases; increases to salaries for steps and COLA; increase to contracts for attorneys (+\$64,000) including for MAC based on current expenditure and management needs and an increased need for roster/conflict attorney fees due to the trial backlog caused by COVID; increase to expert and investigator budget (+\$13,750) due to backlog of cases; decrease to construction from project completed in prior year; minor increases to equipment, travel, training.

74. Roscommon County

FY21 Total system cost approved: \$399,283.00

FY22 Total system cost requested: \$418,205.00

Managed assigned counsel system with hourly pay for a roster of attorneys; small increase in hours for arraignments (total increase \$1,000); increase in overall hours for contract attorneys (total increase \$9,140); added hours to MAC (total increase \$5,200); addition of clerical support for MAC (total increase \$3,120); minor increase for travel and training.

Standard 5 innovation in implementation

Wayne County District Courts –

Note: The following systems will participate in the Regional Office based in D 19 - City of Dearborn for compliance with Standards 1, 3, and 5 (see breakdown of costs associated in the Dearborn plan, below):

75. D 16 - City of Livonia

FY21 Total system cost approved: \$648,950.88

FY22 Total system cost requested: \$592,374.53

Assigned counsel system; removed ancillary positions; minimally increased attorney hours due to backlog and caseload needs; removed training and experts and investigators due to participation in Regional Office.

76. **D 19 - City of Dearborn**

FY21 Total system cost approved: \$347,081.67

FY22 Total system cost requested: \$1,152,586.55

Contract system - reduced the MIDC Coordinator hours by 416 hours per year; increased payments to attorneys by +\$142,601 including FY21 reimbursement of \$75,000 due to increase in attorney hours during pandemic; removed training and experts and investigators due to participation in Regional Office.

The Regional Office will manage funding and compliance for Standards 1, 3, and 5 for 18 district and municipal courts in Wayne County. Total cost to start office is \$676,089.21 including one-time costs and costs of planning, as follows:

- Personnel and Benefits: \$435,793.84
The Office will be staffed with a Regional MAC, accounting/bookkeeper, office assistants (will hire one and, if needed, hire the other), part-time attorney.
- Experts/Investigators: \$75,000.00
The Office will manage Standard 3 for all district and three of four municipal courts. Estimated savings \$115,000.00/year.
- Equipment: \$40,000.00
All items are a one-time expense and include cellphones, printer/copier/scanner, computers, and workstations.
- Training/Travel: \$52,158.75
The Office will manage Standard 1 for all participating funding units. It will utilize the Wayne CAP program, and there is funding for memberships in SADO and NAPD as well as skills training for up to 10 attorneys.
- Supplies/Services: \$73,136.62
This includes indirect costs of \$40,000.00, rent of \$12,000.00 and planning costs (incurred and estimated) of \$14,936.62.

77. D 20 – Dearborn Heights

FY21 Total system cost approved: \$224,372.18

FY22 Total system cost requested: \$200,186.25

Assigned counsel system; reduced ancillary spending including rate and hours by \$10,355.93; reduced equipment by \$1,430.00; removed training and experts and investigators due to participation in Regional Office.

78. D 21 - City of Garden City

FY21 Total system cost approved: \$138,584.08

FY22 Total system cost requested: \$131,171.09

Assigned counsel system; increased attorney hours \$7,600.00; reduced personnel benefits \$3,092.99; removed training and experts and investigators due to participation in Regional Office.

79. D 22 - City of Inkster

FY21 Total system cost approved: \$99,456.08

FY22 Total system cost requested: \$89,216.07

Assigned counsel system; removed training and experts and investigators due to participation in Regional Office.

80. D 23 - City of Taylor

FY21 Total system cost approved: \$433,718.56

FY22 Total system cost requested: \$400,976.19

Assigned counsel system; reduced MIDC coordinator position from full time to part time; removed training and experts and investigators due to participation in Regional Office.

81. D 24 - Cities of Allen Park and Melvindale

FY21 Total system cost approved: \$183,718.00

FY22 Total system cost requested: \$170,765.00

Assigned counsel system; reductions in spending for ancillary hours; removed training/travel and experts/investigators due to participation in Regional Office.

82. **D 27 – Cities of Wyandotte and Riverview**
FY21 Total system cost approved: \$243,705.80
FY22 Total system cost requested: \$232,665.80
Assigned counsel system; removed training and experts and investigators due to participation in Regional Office.
83. **D 30 - City of Highland Park**
FY21 Total system cost approved: \$143,891.19
FY22 Total system cost requested: \$134,606.03
Assigned counsel system; removed training and experts and investigators due to participation in Regional Office; added \$2,000 in IT costs for secure communications in the attorney/in custody meeting room.
84. **D 31 - City of Hamtramck**
FY21 Total system cost approved: \$189,082.71
FY22 Total system cost requested: \$122,935.25
Assigned counsel system; reduced court officer hours, removed MIDC Clerk, reduced attorney hours; removed training and experts and investigators due to participation in Regional Office.
85. **D 33 - Cities of Trenton and Woodhaven (also covers Trenton, Grosse Ile, Gibraltar, Flat Rock, Brownstown Township, and Rockwood)**
FY21 Total system cost approved: \$297,090.00
FY22 Total system cost requested: \$284,600.00
Assigned counsel system; minor reduction in attorney hours, removed training and experts and investigators due to participation in Regional Office.
86. **D 34 - City of Romulus (also covers Belleville, Huron Township, Sumpster Township, Charter Township of Van Buren, and Detroit Metro Airport)**
FY21 Total system cost approved: \$398,233.50
FY22 Total system cost requested: \$318,337.04
Managed assigned counsel system will participate in regional office; removed MAC administrator, added a clerk position and increased attorney hours; removed training and experts and investigators due to participation in Regional Office.

- 87. D 35 - City of Plymouth (covers Plymouth, Plymouth Township, Canton Township, Northville, Northville Township)**
FY21 Total system cost approved: \$385,370.00
FY22 Total system cost requested: \$374,220.00
Assigned counsel system; removed training and experts and investigators due to participation in Regional Office.
- 88. Grosse Pointe City**
FY21 Total system cost approved: \$23,750.00
FY22 Total system cost requested: \$15,300.00
Assigned counsel system; minor reduction in attorney hours, removed training and experts and investigators due to participation in Regional Office.
- 89. Grosse Pointe Farms and Shores**
FY21 Total system cost approved: \$65,974.00
FY22 Total system cost requested: \$69,500.00
Assigned counsel system; increased attorney fees \$12,836 based on demonstrated caseload need, removed training and experts and investigators due to participation in Regional Office; removed equipment line item from prior year.
- 90. Grosse Pointe Park**
FY21 Total system cost approved: \$41,110.00
FY22 Total system cost requested: \$36,250.00
Assigned counsel system; increased hourly rate for attorneys from \$85 to \$100; removed training and experts and investigators due to participation in Regional Office.

Mid-Michigan –

Note: The following systems are part of an 8-county group that shares a MAC manager. Each system individually contracts with the MAC. There is some sharing of regional resources, such as 2nd chair opportunities which was put in place in FY 21. In FY22, the systems will share a Standard 5 compliance assistant with the costs associated divided equally among the 8 counties. This individual will do all indigency screenings and make eligibility determination recommendations to the MAC. They will also assist in coordinating pre-arraignment contacts with clients and maintain a client database. There is also an increase for arraignment attorneys from \$80 or \$85/hr to \$90/hr, and nominal increases for training/travel registration in all systems. *Other* increases are noted below:

91. Clare and Gladwin Counties

FY21 Total system cost approved: \$1,481,001.28

FY22 Total system cost requested: \$1,514,331.96

Managed assigned counsel system with a roster of attorneys.

92. Lake County

FY21 Total system cost approved: \$286,287.59

FY22 Total system cost requested: \$312,679.59

Contract system with a MAC Administrator; minor increase for contract and conflict attorneys.

93. Mason County

FY21 Total system cost approved: \$600,658.33

FY22 Total system cost requested: \$770,885.37

Managed assigned counsel system with hourly pay for a roster of attorneys; significant increase in attorney fees based on demonstrated increased caseload and needs.

94. Mecosta County

FY21 Total system cost approved: \$454,799.00

FY22 Total system cost requested: \$475,512.00

Event-based contract with MAC manager; minor increase (3%) to contract attorneys.

95. Newaygo County

FY21 Total system cost approved: \$821,607.58

FY22 Total system cost requested: \$883,304.05

Managed assigned counsel system with hourly pay for roster of attorneys; increase in hours budgeted for arraignments based on demonstrated caseload needs.

96. Oceana County

FY21 Total system cost approved: \$480,459.40

FY22 Total system cost requested: \$550,230.54

Managed assigned counsel system with hourly pay for panel of attorneys; increase in attorney hours increase in contract attorney request based on tracked caseload needs.

97. Osceola County

FY21 Total system cost approved: \$424,472.82

FY22 Total system cost requested: \$431,363.68

Managed assigned counsel system with hourly pay for panel of attorneys; removed equipment purchased in prior year.

Increase exclusively (or largely) related to implementation of Standard 5

98. D 41-a-1 City of Sterling Heights

FY21 Total system cost approved: \$298,931.00

FY22 Total system cost requested: \$360,353.00

Assigned counsel system moving to a managed assigned counsel system with the addition of a Managed Assigned Counsel Administrator (\$60,000) as the primary source of increased funding request.

99. D 51 - City of Waterford

FY21 Total system cost approved: \$268,258.26

FY22 Total system cost requested: \$281,926.82

Assigned counsel system moving to a managed assigned counsel system; additions to contractual attorney time for the Managed Assigned Counsel Administrator; step increase and shift for coordinator from court staff to city personnel.

100. Kalkaska County

FY21 Total system cost approved: \$446,774.89

FY22 Total system cost requested: \$436,109.81

Managed assigned counsel system; construction project completed from prior year; attorney administrator hours increasing from 4 hrs/wk to 20 hrs/wk, resulting in overall increase of \$78,000.00. The attorney administrator will now be responsible for case assignments, which is a new duty for her to take on. In addition, the court will transition the indigency determination to the attorney administrator as well. Minor increases to contract attorneys due to rate change for life offense cases from \$100 to \$120/hr.

101. Leelanau County

FY21 Total system cost approved: \$221,985.72

FY22 Total system cost requested: \$259,052.32

System will move from an assigned counsel system to a managed assigned counsel system; removed ancillary personnel and related costs; adding MAC Administrator, increased payments to contract attorneys with increased fee schedule (\$250 to \$275) in District Court Misdemeanor flat case fees & 15% increase (\$85/hr to \$100/hr) in hourly rate for Capital Cases; minor increase to cover Circuit Court arraignments, expert and investigator funding; minor decrease in travel and training due to fewer attorneys accepting cases.

102. Monroe County

FY21 Total system cost approved: \$973,072.76

FY22 Total system cost requested: \$1,180,257.77

Assigned counsel system moving to a managed assigned counsel system with the addition of a Managed Assigned Counsel Administrator (full time salaried employee) and COLA increase for FTE coordinator; contract attorney rate increase from \$80 to \$85/hr; some equipment and case management system funding included in current plan.

Other increases (more than 5% from prior year) to direct services and/or spending

Added Social workers

103. Benzie and Manistee Counties

FY21 Total system cost approved: \$766,610.24

FY22 Total system cost requested: \$985,053.25

Regional public defender office will add a conflict attorney manager (\$14,400); steps/COLA for staff and increase administrator from part time to full time (+\$13,809.90 plus fringes) increase to PD staff by addition of a FT Social Worker (\$39,540.00 plus fringes), minor increases for equipment and furniture for PD staff; increase in conflict attorney hours due to increase in conflict cases (+\$51,400.00) and additional funding for conflict attorneys (+ \$45,000) based on projected spending; increase (+\$2,625.00) to expert and investigator budget based on projected spending; increases to training, travel; minor decreases to supplies and services.

104. Kent County

FY21 Total system cost approved: \$7,295,853.89

FY22 Total system cost requested: \$8,424,799.59

Public defender office (vendor model) with a roster of attorneys accepting assignments; County personnel increasing (\$131,414.40 plus fringe benefits) due to Indigent Defense Coordinator position transitioning to full time and the creation of the Indigent Defense Analyst position; vendor office increasing (\$439,528.80 plus fringes) to add 3 investigators, 3 social workers, 1 legal secretary and shift of some salaries to this budget; minimal increases to ancillary spending; roster attorney increases (\$557,150 increase); office remodeling costs for paint, windows, wiring (\$22,830); some new furniture and equipment is requested for new employees and common space in office (\$10,470).

105. Shiawassee County

FY21 Total system cost approved: \$909,815.40

FY22 Total system cost requested: \$1,261,437.29

Public defender office; increases are primarily to personnel (+\$335,686.29 plus fringes) for COLA/steps and a new social worker, new compliance manager and increasing part time defender to full time; increase (+\$50,000) due to projected trial backlog; removed previously completed construction

project and equipment purchase from prior year; minor increases to travel and training.

Systems seeking reimbursement for overspending and/or additional funding for COVID backlog

106. Berrien County

FY21 Total system cost approved: \$3,095,791.00

FY22 Total system cost requested: \$4,077,848.90

Public Defender Office requires two additional attorneys and an additional social worker based on demonstrated caseload needs; equipment and related furniture expenses are included for these positions and staff; significant additional funding (\$146,911) is required due to increased number of hearings & conflict cases, as well as complexity of cases; system is also seeking \$170,000 for reimbursement for overspending on contract attorney fees in FY21.

107. Calhoun County

FY21 Total system cost approved: \$3,575,137.02

FY22 Total system cost requested: \$3,767,489.57

Public defender office with MAC administrator for conflict cases; \$160,760.24 increase (plus fringes) for salaries for additional staffing needs along with related equipment purchases \$60,680 increase for contract attorneys due to COVID backlog and additional hours for MAC administration; \$12,500 increase for experts and \$27,300 increase for investigators based on projected needs.

108. Ingham County

FY21 Total system cost approved: \$6,068,854.75

FY22 Total system cost requested: \$6,479,621.17

Public defender office with MAC administrator for conflict cases; PD office salary increases for COLA/steps and additional staff for caseload needs and indigency screening (+\$413,047.63); increase to contractual attorneys (+\$26,000) due to rate change from \$85 to \$100/hr beginning January 1, 2022; equipment increase for replaced computers and file storage server; increase (+\$10,000) to expert and investigator budget for backlog of trials; minor increases to travel/training; decrease to supplies based on tracked spending or purchases completed.

109. Oscoda County

FY21 Total system cost approved: \$178,857.00

FY22 Total system cost requested: \$208,680.00

Managed assigned counsel system with hourly pay for assigned attorneys; added attorney hours due to COVID backlog (increase of \$23,950) minor increase for travel, training and transcripts.

110. Ottawa County

FY21 Total system cost approved: \$3,279,235.00

FY22 Total system cost requested: \$3,849,421.50

Public defender office with MAC administrator for conflict cases; increase to PD office for steps/COLA and additional staff (+\$379,691.02 plus fringes) plus related equipment, supplies for new staff; increase (+\$50,000) to contract attorney fees due to a backlog in cases awaiting trial once COVID restrictions are lifted and increasing hourly rates to Standard 8 rates; decrease to experts and investigators based on current expenditures; minor increase for travel and training.

Other increases to cost analysis

111. Bay County

FY21 Total system cost approved: \$1,234,010.40

FY22 Total system cost requested: \$1,502,149.11

Two public defender offices plus a conflict/overflow panel, system will be adding a MAC manager to oversee conflict assignments; step and COLA increases for staff; increase from part-time to full time OAC administrator (increase of \$15,761.47); increased jail corrections officer to accommodate attorney visits with clients increased from 13 hrs/week to 30 hrs/week (increase of \$17,807 plus fringes); addition of MAC to oversee conflicts/overflow panel (\$12,000); increase in overflow/conflicts (\$172,515.50 increase); substantial increase in experts and investigators (\$29,000 increase due to *Miller* hearing); added equipment for staff (\$2,500).

112. Cheboygan County

FY21 Total system cost approved: \$386,704.00

FY22 Total system cost requested: \$446,422.04

Managed assigned counsel system; increase in corrections staff hours (15 min to 30 min per case) to facilitate Standards 2 and 4 based on study (\$16,436.05);

increase in contracts to attorneys (\$39,592.00 – from \$100 to \$110) for arraignments, initial interviews, other critical stages and increase to attorney contracts; equipment and supplies for workstation, minor increase to travel and training; system is seeking to reauthorize FY21 construction approved for FY22 (\$12,500).

113. Genesee County

FY21 Total system cost approved: \$4,833,546.98

FY22 Total system cost requested: \$5,191,744.02

System is moving from a managed assigned counsel system with contracts to a public defender office with a managed assigned counsel system; Addition of 7 new PD attorneys (1 deputy, 6 line PDs) (\$854,143.6 plus fringe benefits); increased IT tech from part to full time and reclassified administrators to PD office; increase to supplies of \$65,500 due to creation of PD office and new employee office needs; purchase of case management system; decrease to ancillary spending by removing court clerk/adding hours to financial analyst; decrease to contractual attorneys due to PD staff additions; decrease to construction due to completion of Mt. Morris District Court meeting space project; decrease to equipment due to removal of one-time purchases for current MAC; minor increase to travel and training.

114. Gogebic County

FY21 Total system cost approved: \$298,453.76

FY22 Total system cost requested: \$566,768.88

System is moving from a contract system to a managed assigned counsel system; substantial increase to contracts for attorneys overall increase of \$279,650.00. Attorneys will transition from a contract system to a MAC system and will be paid hourly \$100/\$110/\$120 (the current average is \$50/hr for all work performed); increase in arraignments from \$50/hr to \$100/hr. initial interviews will remain at \$100/hr; (new) Sobriety Court coverage by MIDC attorney-\$5200.00/year; New Managed Assigned Counsel Administrator-\$100/hr x 5 hrs/week=\$26,000/yr; New Managed Assigned Counsel Administrator for Conflicts-\$100/hr x 1 hrs/wk=\$5200/yr.

115. Grand Traverse County

FY21 Total system cost approved: \$1,058,022.80

FY22 Total system cost requested: \$1,271,524.31

Managed assigned counsel system; minor increase for MAC administration; increases to contracts for attorneys due to district court flat rate increase from \$250/case to \$275/case, hourly rate for life offenses increased from \$85/hr to \$100/hr, addition of specialty court arraignment coverage @ \$250/day 1 day/wk; overall increase of \$20,000.00 for expert and investigative assistance due to increase in attorney requests for these services; decrease in ancillary spending.

116. Iosco County

FY21 Total system cost approved: \$307,538.92

FY22 Total system cost requested: \$369,214.48

Hybrid contract and hourly system (minimum contract payment with hourly rate when hours exceed minimum hours per month) with MAC administration; increase is largely due to reconfiguration of attorney payments by reducing minimum hours from 33/month to 27/month, increasing Lead Attorney compensation from \$2,700/year (2.5 hours/month @\$90/hour) to \$14,400 (12 hours/month @\$100/hour), and increase in both rate and number of hours for conflict counsel (FY 21 was 33 hours @\$90/hour for \$2,790— this year's request is 185 hours @\$110/hour for \$20,350); minor increases to travel, training and supplies.

117. Isabella County

FY21 Total system cost approved: \$1,454,506.28

FY22 Total system cost requested: \$1,587,916.66

Public Defender office with a MAC administrator and roster for overflow and conflicts; step and fringe increases for staff; additional hours and addition of clerical support for MAC; Polycom for PD office; rate increase for training; increase in book budget (\$2,346 increase); slight increase in janitorial supplies; increase in cell phone costs, addition of transcript fees; computer costs added; COVID costs increased; indirect costs decreased from prior year.

118. Luce County

FY21 Total system cost approved: \$266,954.00

FY22 Total system cost requested: \$292,076.24

Managed assigned counsel system; increase in assigned counsel fees (\$20,000.00) and increase in experts and investigators (\$5,000.00) based on demonstrated caseload need; minor increase in travel and training due to increased membership rates.

119. Sanilac County

FY21 Total system cost approved: \$388,001.09

FY22 Total system cost requested: \$409,244.59

Managed assigned counsel administrator overseeing assignments to a roster of attorneys; nominal increases to MAC salary and some supplies; increase to attorneys (\$13,790) and minor increases to travel, training and mentorship opportunities.

120. St. Clair County

FY21 Total system cost approved: \$2,788,549.84

FY22 Total system cost requested: \$3,093,513.32

Public defender office with a roster for conflict attorneys; system wants to add to its PD office staff (\$220,503) with an additional attorney and clerks and related equipment/supplies; increase for contract attorney fees (\$83,334) including a third contracted CAFA attorney; minor decreases to travel and training budget.

b. Reimbursement for the cost of planning – Action Requested

Pursuant to MCL 780.993(2) staff recommends reimbursing the following systems for the costs associated with compliance planning, pending approval by staff of supporting documentation for the requests:

System	Planning Costs
Alger County	\$2,879.90
D 19 - Dearborn	\$14,936.62
D 61 - Grand Rapids	\$12,000.00
D 16 Livonia	\$615.53
D 41-a-1 Sterling Heights	\$2,622.00
D 17 - Redford	\$923.00
Delta County	\$471.10
Dickinson County	\$2,000.00
Gogebic County	\$1,190.28
Iosco County	\$1,305.00
Total reimbursement requested	\$38,943.43

c. Recommended approved costs, by region and by system

MIDC Region	Trial Court System		MIDC Funds Requested	FY22 Local Share (+ 1.2%)	Total System Cost	Regional Total Costs
LMOSC	D 41a1 Sterling Heights	1	\$360,353.00	\$0.00	\$360,353.00	
	D 46 Southfield	1	\$491,728.00	\$81,972.00	\$573,700.00	
	D 48 Birmingham	1	\$515,257.40	\$17,292.64	\$532,550.04	
	D 50 Pontiac	1	\$603,133.64	\$17,846.62	\$620,980.26	
	D 51 Waterford	1	\$250,430.85	\$31,495.97	\$281,926.82	
	Lapeer County	1	\$626,929.81	\$108,770.19	\$735,700.00	
	St. Clair County	1	\$2,350,681.03	\$742,832.29	\$3,093,513.32	
						\$6,198,723.44

Mid Michigan	Arenac County	1	\$143,646.61	\$113,217.22	\$256,863.83	
	Bay County	1	\$901,881.83	\$600,267.28	\$1,502,149.11	
	Clare/Gladwin Counties	1	\$1,280,120.43	\$234,211.53	\$1,514,331.96	
	Huron County	1	\$575,437.43	\$80,388.83	\$655,826.26	
	Iosco County	1	\$199,089.24	\$170,125.24	\$369,214.48	
	Isabella County	1	\$1,351,810.10	\$236,106.56	\$1,587,916.66	
	Lake County	1	\$235,547.38	\$77,132.21	\$312,679.59	
	Mason County	1	\$615,564.60	\$155,320.77	\$770,885.37	
	Mecosta County	1	\$310,235.20	\$165,276.80	\$475,512.00	
	Newaygo County	1	\$683,862.70	\$199,441.35	\$883,304.05	
	Oceana County	1	\$458,186.10	\$92,044.44	\$550,230.54	
	Osceola County	1	\$361,744.15	\$69,619.53	\$431,363.68	
	Oscoda County	1	\$154,873.98	\$53,806.02	\$208,680.00	
	Roscommon County	1	\$216,530.94	\$201,674.06	\$418,205.00	
	Sanilac County	1	\$344,203.39	\$65,041.20	\$409,244.59	
						\$10,346,407.12
	Northern Michigan	Antrim County	1	\$182,786.23	\$79,372.17	\$262,158.40
Cheboygan County		1	\$303,321.19	\$143,100.85	\$446,422.04	
Gogebic County		1	\$463,410.81	\$103,358.07	\$566,768.88	
Grand Traverse County		1	\$1,116,101.35	\$155,422.96	\$1,271,524.31	
Kalkaska County		1	\$396,646.87	\$39,462.94	\$436,109.81	
Leelanau County		1	\$206,736.62	\$52,315.70	\$259,052.32	
Luce County		1	\$262,195.93	\$29,880.31	\$292,076.24	
Manistee/Benzie Counties		1	\$704,673.31	\$280,379.94	\$985,053.25	
Schoolcraft County		1	\$202,899.73	\$35,958.87	\$238,858.60	
					\$4,758,023.85	

South Central Michigan	Clinton County	1	\$1,155,074.66	\$146,421.91	\$1,301,496.57	
	Genesee County	1	\$3,869,213.84	\$1,322,530.18	\$5,191,744.02	
	Gratiot County	1	\$678,966.43	\$82,584.93	\$761,551.36	
	Ingham County	1	\$5,566,775.92	\$912,845.25	\$6,479,621.17	
	Livingston County	1	\$1,392,680.60	\$927,689.27	\$2,320,369.87	
	Monroe County	1	\$966,374.61	\$213,883.16	\$1,180,257.77	
	Shiawassee County	1	\$1,156,393.71	\$105,043.58	\$1,261,437.29	
						\$18,496,478.05
Wayne County	D 16 Livonia	1	\$574,956.13	\$17,418.40	\$592,374.53	
	D 19 Dearborn	1	\$1,074,502.99	\$78,083.56	\$1,152,586.55	
	D 20 Dearborn Heights	1	\$190,451.15	\$9,735.10	\$200,186.25	
	D 21 Garden City	1	\$122,320.14	\$8,850.95	\$131,171.09	
	D 22 Inkster	1	\$43,676.07	\$45,540.00	\$89,216.07	
	D 23 Taylor	1	\$361,001.18	\$39,975.01	\$400,976.19	
	D 24 Allen Park	1	\$156,078.52	\$14,686.48	\$170,765.00	
	D 27 Wyandotte	1	\$231,217.77	\$1,448.03	\$232,665.80	
	D 30 Highland Park	1	\$120,944.03	\$13,662.00	\$134,606.03	
	D 31 Hamtramck	1	\$108,590.15	\$14,345.10	\$122,935.25	
	D 33 Woodhaven	1	\$208,594.07	\$76,005.93	\$284,600.00	
	D 34 Romulus	1	\$263,562.54	\$54,774.50	\$318,337.04	
	D 35 Plymouth	1	\$343,382.78	\$30,837.22	\$374,220.00	
	Grosse Pointe Farms/Shores	1	\$54,631.70	\$14,868.30	\$69,500.00	
	Grosse Pointe Municipal	1	\$12,099.04	\$3,200.96	\$15,300.00	

	Grosse Pointe Park	1	\$26,164.41	\$10,085.59	\$36,250.00	
						\$4,325,689.80
Western Michigan	Allegan/Van Buren Counties	1	\$2,127,228.86	\$535,611.12	\$2,662,839.98	
	Barry County	1	\$595,406.47	\$229,039.21	\$824,445.68	
	Berrien County	1	\$3,508,379.23	\$569,469.67	\$4,077,848.90	
	Calhoun County	1	\$3,076,032.47	\$691,457.10	\$3,767,489.57	
	Cass County	1	\$244,915.60	\$251,853.40	\$496,769.00	
	Ionia County	1	\$345,612.24	\$221,226.90	\$566,839.14	
	Kent County	1	\$5,999,666.07	\$2,425,133.52	\$8,424,799.59	
	Montcalm County	1	\$718,984.93	\$222,976.18	\$941,961.11	
	Muskegon County	1	\$2,361,498.58	\$670,241.53	\$3,031,740.11	
	Ottawa County	1	\$2,915,257.46	\$934,164.04	\$3,849,421.50	
						\$28,644,154.58
TOTAL RECOMMENDED FOR APPROVAL		64	\$57,440,654.20	\$15,328,822.64	\$72,769,476.84	