



MICHIGAN INDIGENT DEFENSE COMMISSION

Date: Tuesday, August 23, 2022, Time: 11:00 a.m.
Michigan Bankers Association
507 S. Grand Ave, Lansing, MI 48933

MEETING AGENDA

1. Call to Order
2. Roll call and opening remarks
3. Introduction of Commission members and guests
4. Public comment
5. Additions to agenda
6. Consent agenda (**action item**)
 - June 21, 2022 Meeting Minutes
7. Chair Report
 - Committee Assignments: Data Collection
8. Executive Director Report
9. Commission Business
 - a. Standing Committee Report
 - i. Executive Committee – *Christine Green, Chair*
 - Standards pending approval by LARA
 - ii. Ad hoc Committees
 - Local Systems Communication – *Paul Bullock, Committee Chair*
 - DEI - *Hakim Crampton, Committee Chair*
 - Court Rules and Legislative changes – *John Shea, Committee Chair*
 - b. FY24 Budget Request (operations and grants) (**action item**)
 - c. Regional Update: South Central Michigan – *Nicole Walter, Regional Manager*

~ break ~

- d. MIDC Standards Implementation
 - i. FY22 Compliance Planning
 - o Status updates and funding distributed to date
 - o System assessment process
 - Update on system compliance – Muskegon County
 - o Plan changes (action items)
 - Grosse Pointe Woods
 - Jackson County
 - Isabella County
 - o Budget adjustments (information items)
- e. FY23 Compliance Planning
 - i. Overview of FY23 submissions
 - ii. FY23 Contract Distribution
 - o Vendor/sub recipient terms (action item)
 - iii. Senior Staff Recommendations for resubmissions (action items)
 - o Approve cost analysis (plan previously approved):
 1. D 22 Inkster
 2. D 30 Highland Park
 3. Newaygo County
 4. Oceana County
 - o Approve plan and approve cost analysis:
 5. Cheboygan County

10. Adjourn

Next meeting: October 11, 2022, beginning at 11:00 a.m. in Lansing

Online Access: For members of the public who wish to join the meeting online, please email Marcela Westrate at WestrateM1@michigan.gov or call (517) 648-3143 to request a Zoom link. This link will be provided in the morning before the meeting begins.

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held in person at the Michigan Bankers Association building in Lansing, Michigan. Remote access via Zoom was available for Commissioners and, upon request, for members of the public. The MIDC website and meeting notice included information for members of the public on how to contact the MIDC to obtain the Zoom link for participation. Commissioners were able to participate remotely if they qualified for an exemption under the Open Meetings Act or if they requested an accommodation under the Americans with Disabilities Act, 42 USC 12131 *et. seq.*, and Rehabilitation Act, MCL 395.81 *et. seq.*, pursuant to Attorney General Opinion No. 7318.

June 21, 2022

Time: 9:00 am

Michigan Bankers Association
507 S. Grand Ave, Lansing, MI 48933

Commission Members Participating

The following members participated in person:

- Joshua Blanchard
- Tracy Brame
- Kimberly Buddin
- Paul Bullock
- Hakim Crampton
- Andrew DeLeeuw
- Judge James Fisher
- David Jones
- James Krizan
- Debra Kubitskey
- Margaret McAvoy
- John Shea
- William Swor
- Rob VerHeulen

The following member requested an accommodation under the Americans with Disabilities Act to participate via Zoom:

- Gary Walker (Chocolay Township, Marquette County, Michigan)

The following Commissioners were absent:

- Chair Christine Green
- Tom McMillin
- Cami Pendell
- Judge Robinson Garrett

In Chair Green's absence, Presiding Officer Tracy Brame called the Michigan Indigent Defense Commission ("MIDC" or "the Commission") meeting to order at 9:05 am. Guests were invited to introduce themselves.

Additions to the agenda

Commissioner McAvoy moved that the agenda be amended to include "1. Call to Order" and that the remaining items be renumbered. Judge Fisher seconded. The motion carried.

Public Comment

The following individuals provided public comment:

- Matthew Knecht
- Kristine Longstreet
- Jill Tines
- Angela Peterson
- Robin Dillard-Russaw
- Alexi Shalom
- Brandon Mancilla
- Michael Davisson
- Andrew Sullivan

Approval of the Agenda

Judge Fisher moved that the agenda be adopted as previously amended. Commissioner DeLeeuw seconded. The motion carried.

Consent Agenda

Commissioner Blanchard moved that the consent agenda containing the minutes from April 19, 2022 be approved. Commissioner Kubitskey seconded. The motion carried.

Chair Report

Presiding Officer Brame provided an update on the mediation with the City of Hazel Park. Mediation took place in June. Kristen Staley and Marla McCowan provided details about the mediation settlement.

Commissioner VerHeulen moved that the FY22 compliance plan and cost analysis for the City of Hazel Park be adopted as amended during mediation. Judge Fisher seconded. The motion carried.

Judge Fisher moved that the proposed mediation settlement agreement between the MIDC and the City of Hazel Park be approved. Commissioner Blanchard seconded. The motion carried.

Presiding Officer Brame announced assignments made by Chair Green to the committee on Court Rules and Legislative Changes. The committee will consist of the following members: Commissioners Shea (Chair), Blanchard, Brame, Buddin, Krizan, McAvoy, VerHeulen, and Pendell.

Executive Director Report

Ms. Staley introduced new Grant Analyst Bradley Sheaffer who began employment with the MIDC on June 13. Research Associate Christopher Sadler left the MIDC in May to become the Research Director for the North Carolina Indigent Defense Services. Ms. Staley provided an update on staff's activities and on the FY23 appropriations process.

Commission Business

Standing Committee Reports

Ms. Staley provided an update amount the Memorandum of Understanding between the MIDC and the Department of Licensing and Regulatory Affairs (LARA). She also provided an update about the standards pending before LARA for the Director's approval.

Regional Update

Susan Prentice-Sao, Regional Manager for the MIDC's Western Michigan region, presented an overview of the activities in her region.

Additional Public Comment

Russell Church provided public comment.

Compliance Planning and MIDC Standards Implementation

FY22 Compliance Planning

Ms. McCowan provided an update on FY22 compliance. Regional Managers are working to assess compliance with Standard 5, which is required 180 days after funding is distributed.

Grants Director Rebecca Mack and Ms. Prentice-Sao continued to work with Muskegon County to bring the county into compliance. Staff extended the time for full compliance and will continue to support the county.

FY23 Compliance Planning

Ms. McCowan provided an overview of the FY23 plans and cost analyses submitted by the systems.

The Increase to Direct Costs in Compliance Plans Committee met. Commissioner Swor and Ms. McCowan provided an update about the meeting.

The General Increases in Compliance Plans Committee met. Ms. McCowan provided an update about the meeting in Chair Green's absence.

MIDC staff recommends that the plan and cost analyses for Oakland County be disapproved. Commissioner Bullock moved that the staff recommendation be adopted and that the plan and cost analysis for Oakland County be disapproved. Commissioner Walker seconded. The motion carried.

Ms. McCowan provided an overview of the following systems' submissions; MIDC staff recommends that the plans and cost analyses submitted by these systems be disapproved:

Alger County
Cheboygan County
Chippewa County
Delta County
47th District Court - City of Farmington

Emmet County
Iron County
Muskegon County
Otsego County
Wexford/Missaukee Counties

Commissioner McAvoy moved that the plans and cost analyses for the 10 systems listed above be disapproved. Commissioner Buddin seconded. The motion carried.

Ms. McCowan provided an overview of the following systems' submissions; MIDC staff recommends that the plans for these systems be approved and that the cost analyses be disapproved:

Charlevoix County
Crawford County
22nd District Court - Inkster
30th District Court - Highland Park

40th District Court - City of St Clair Shores
Newaygo County
Oceana County
Saginaw County

Commissioner Swor moved that the compliance plans for the eight systems listed above be approved and that the cost analyses be disapproved. Judge Fisher seconded. The motion carried.

Ms. McCowan provided an overview of the submissions by the 101 systems listed below; MIDC staff recommends that the compliance plans and cost analyses for these systems be approved:

Antrim County
Clinton County
16th District Court - Livonia
17th District Court - Township of Redford
19th District Court - Dearborn
20th District Court - Dearborn Heights
21st District Court - Garden City
23rd District Court - Taylor
24th District Court - Allen Park
27th District Court - Wyandotte
28th District Court - City of Southgate
29th District Court - City of Wayne
31st District Court - Hamtramck
32a District Court - City of Harper Woods
33rd District Court - Woodhaven
34th District Court - Romulus
35th District Court - Canton
Grosse Pointe Farms/Shores
Grosse Pointe Municipal
Grosse Pointe Park
18th District Court - City of Westland
25th District Court City of Lincoln Park

36th District Court - City of Detroit
39th District Court - Roseville and Fraser
41-a-2 District Court - Shelby Twp
41b District Court - Clinton Township
43-1 District Court - City of Hazel Park
43-2 District Court City of Ferndale
44th District Court - City of Royal Oak
45th District Court - City of Oak Park
48th District Court - Birmingham
50th District Court - Pontiac
51st District Court - Waterford
62A District Court Wyoming (covers 59-1,
59-2, 62A, 62B)
Gratiot County
Grosse Pointe Woods
Leelanau County
Luce County
Mecosta County
Ontonagon County
Presque Isle County
Schoolcraft County
Tuscola County

37 th District Court - Cities of Warren/Centerline	Midland County
38 th District Court - City of Eastpointe	Monroe County
43-3 District Court - City of Madison Heights	Montmorency County
46 th District Court - Southfield	Ogemaw County
Dickinson County	Osceola County
Eaton County	Ottawa County
Grand Traverse County	Shiawassee County
Huron County	St. Clair County
Isabella County	Washtenaw County
Jackson County	Wayne County
Lapeer County	Calhoun County
Mackinac County	Cass County
Manistee/Benzie Counties	Marquette County
St. Joseph County	Mason County
Alcona County	Menominee County
Alpena County	Roscommon County
Barry County	Allegan/Van Buren Counties
Berrien County	Arenac County
Branch County	Bay County
Clare/Gladwin Counties	Iosco County
Gogebic County	Montcalm County
Hillsdale County	Sanilac County
Houghton County (also covers Baraga, Keweenaw)	41a1 District Court - Sterling Heights
Ingham County	61 st District Court - Grand Rapids
Ionia County	Genesee County
Lake County	Kalkaska County
Lenawee County	Oscoda County
Livingston County	Kalamazoo County
	Kent County
	Macomb County

Commissioner VerHeulen moved that the compliance plans and cost analyses for the 101 systems listed above be approved. Commissioner Swor seconded. The motion carried. Commissioner Bullock abstained from the vote with respect to Mecosta County. Commissioner DeLeeuw abstained from the vote with respect to Washtenaw County. Commissioner Kubitskey abstained from the vote with respect to Jackson County. Commissioner Brame abstained from the vote with respect to Kent County.

Increase to State Bar of Michigan Dues

Judge Fisher moved to adjust the total system costs and increase the award for attorney licenses in approved compliance plans. Commissioner Swor seconded. The motion carried.

Commissioner McAvoy moved that the meeting be adjourned. Judge Fisher seconded. The motion carried.

The meeting adjourned at 1:05 pm.

The next meeting will be August 23, 2022 at 11:00 am in Lansing.

Respectfully submitted,

Marcela Westrate

MIDC Ad hoc committee - Local Systems Communication

July 14, 2022 via Teams

1:03 p.m. – 2:28 p.m.

- Members
 - Committee Chair - Paul Bullock
 - Christine Green
 - John Shea
 - Debra Kubitskey
- Not present:
 - David Jones

Background/Context:

The MIDC is a public body tasked with managing and distributing significant amount of funding. Commissioners should take care to avoid any appearance of favoritism with any particular funding unit. Currently, the primary communication by funding units is with and through staff, but some funding unit stakeholders have expressed that their voices are not being heard by the Commission.

Purpose:

The committee's purpose is to improve process around communications with local systems. This is an ad hoc committee tasked with making recommendations to the Chair and Commission. The committee's work is not being conducted in a public meeting, based on the [Attorney General's Guide to the Open Meetings Act](#) at p.8 "The OMA does not apply to committees and subcommittees composed of less than a quorum of the full public body if they are merely advisory or only capable of making 'recommendations concerning the exercise of governmental authority.'"

Discussion topics:

- What are we hearing from local stakeholders? What is the problem?
- Are we getting enough information when the Commission makes decisions, particularly when there is a conflict apparent with the local system?
 - Generally yes but with some notable exceptions. On a case by case basis, some Commissioners might call senior staff or a regional manager for clarification on items of interest or concern. Depending on the level of familiarity with local partners, sometimes Commissioners answer questions informally or on background about the Commission's work.
 - Occasionally there is a lack of understanding by Commissioners of friction points when it comes to assessing the reasonableness of what a system is proposing and the effectiveness of what they are supposed to be doing after approval. Public meetings tend to not be conducive to candid conversations around those friction points, particularly because staff is careful in public meetings about what is said.

- From the Commissioner's perspective, the lack of ability to gather information directly from stakeholders during a public meeting results in feeling like they are not making fully informed decisions. Examples cited included seeking comment during compliance plan action items on staff recommendations, and around the compliance resolution process.
- Public comment limited to three minutes per person without Commissioner interaction seems inadequate and an inefficient means to gather information as well as frustrating and disrespectful to the stakeholders appearing for comment.
- Background of staff organization discussed, role of regional managers, development of committee work around compliance planning and unique issues.
 - When it comes to noncompliance, staff can make available to Commissioners all relevant communications with local system stakeholders so that if an action item is on the agenda, all information can be accessed.
 - What happens when local system stakeholders are unhappy with their Regional Manager, ranging from personality conflicts to wanting to lodge a job related performance complaint? Stakeholders know how to reach supervisors and the consensus was that the Commission does not want to be involved in staff issues.
 - What happens if a Commissioner is interested in learning more about a particular system or model? Consensus was that the Commissioner should reach out to Kristen to discuss ideas and Kristen will delegate to Marla and/or other appropriate staff members to organize the information and meetings for the Commissioner(s).
- Goals and activities of Committee
 - Ensuring Commissioners get all of the information that they think is relevant to fulfill commissioner roles. This involves the formal process during meetings, and whether to expand or reimagine public comment, as well as informally either through committee work and communication with staff.
 - Listening to and supporting concerns from local partners is part of the role of the Commission. The committee recognized the important role and relationships between staff and local partners and does not want to interfere with those relationships. The committee also does not want to appear meddlesome in compliance issues. When necessary, there is some mechanism in place for a Commissioner to be assigned by the Chair to participate with staff in meetings with local partners.
 - Revise the "Complaint" form/process, required by MIDC Act, and published on website. The form could be bifurcated between complaints and recommendations; the website "contact" page could be expanded to allow for opportunities for people to be added to the Commission agenda and passed along to the Executive Committee. Review other existing resources.

Next meeting: September 29, 2022 at 1 p.m. by Zoom.

To: Michigan Indigent Defense Commission

From: Commissioner Crampton

Re: DEI Committee Update

Date: August 15, 2022

This ad hoc committee is composed of the following members:

- Hakim Crampton, Committee Chair
- Tracey Brame
- Andrew DeLeeuw
- David Jones
- Debra Kubitskey

Chair Green regularly participates in the committee meetings, along with Executive Director Kristen Staley. MIDC staff members Marla McCowan, Nicole Smithson, and Melissa Wangler are assigned to support the committee's work.

The Committee had meetings through the winter and early spring to create a mission statement, which was previously distributed to the Commission and attached again to this memo. The Committee has also been working on long and short term goals to complement the strategic plan, including most recently on May 19, 2022 and July 12, 2022. That document is attached for feedback.

The committee intends to use upcoming Commission meetings to facilitate discussions about implicit bias. To assist with these discussions, the committee suggests reviewing the following resources:

- [Hidden Injustice: Toward a Better Defense](#), American Bar Association
- [Juror Orientation Video Updated to Address Unconscious Bias](#), Michigan One Courts of Justice
- [Project Implicit, implicit association testing](#), compiled by researchers from Harvard and other academic institutions

Other relevant reading includes the [American Bar Association's recently approved principles on mass incarceration](#), particularly Principles 1 (starting on page 4) and 9 (starting on page 15), as well as pages 30-31 of the supplemental report, which affirm the Committee's strategic goals and the need for DEI work.

Mission Statement and Goals

Our communities and the broader public welfare are enhanced by a quality public defense system that recognizes the value, dignity, and humanity of all persons charged in criminal court through zealous, client-centered advocacy. No one receives equal justice under law when implicit bias is a factor in their case. A person's culture, ethnicity, race, sex, gender identity and expression, nation of origin, age, languages spoken, color, religion, disability, sexual orientation, height, weight, familial status, marital status, income level or socioeconomic status, or any other factor irrelevant to their rights should never adversely impact the outcome of their case. Additionally, failing to follow diversity, equity, and inclusion (DEI) principles and best practices can result in a loss of talent and less successful public defense teams. The MIDC recognizes that DEI is critical to its mission of ensuring that quality public defense services are accessible to all eligible adults charged with a criminal offense in Michigan.

In order to create a just and equitable criminal legal system and improve public defense, the DEI committee is tasked with the following:

Internal Assessment: Regularly review all Commission policies and standards with a DEI lens and assess whether revisions or new policies are needed.

Training: Develop implicit bias and cultural competency training for staff and the Commission.

Data Collection: Collect data to help identify disparities at various stages of criminal prosecutions.

Employment: Follow best DEI practices in hiring and retaining the Commission's staff.

Collaboration and Outreach: Support training for appointed counsel on implicit bias, cultural competency, and how to litigate issues like racial disparity. Promote local efforts to collect data to help identify disparities. Encourage local systems to use best practices in hiring indigent defense service providers. Consult with scholars and local groups working on DEI.

Report and Recommendations

MICHIGAN TASK FORCE ON JUVENILE JUSTICE REFORM



July 22, 2022

BACKGROUND ON MICHIGAN'S TASK FORCE ON JUVENILE JUSTICE REFORM

Over the last few years, Michigan has made many improvements to its juvenile justice system including raising the age of juvenile court jurisdiction. Additionally, local courts throughout the state employ research-based practices, such as diverting youth from system involvement, using risk and needs assessment tools, and adopting evidence-based programs and services. At the same time, Michigan has struggled to consistently align system policies and practices across diverse locales with what research shows works to improve community safety, reduce juvenile recidivism, and reduce system disparities.

In recognition of these challenges, Governor Gretchen Whitmer signed Executive Order 2021-6 establishing the Michigan Task Force on Juvenile Justice Reform (Task Force). The purpose of the Task Force was to “lead a data-driven analysis of (Michigan’s) juvenile justice system and recommend proven practices and strategies for reform grounded in data, research, and fundamental constitutional principles.” Task Force members include representatives from across branches of government, political parties, locales, and the juvenile justice continuum representing diverse perspectives, including youth and family members with lived experience of the juvenile justice system.

As laid out in the executive order, the Task Force is charged with developing recommendations to improve state law, policy, and appropriations guided by the following objectives:

- Safely reduce placement in detention and residential placement and associated costs.
- Increase the safety and well-being of youth impacted by the juvenile justice system.
- Reduce racial and ethnic disparities among youth impacted by the juvenile justice system.
- Improve the efficiency and effectiveness of the state’s and counties’ juvenile justice systems.
- Increase accountability and transparency within the juvenile justice system.
- Better align practices with research and constitutional mandates.

Governor Whitmer gave the Task Force a year to conduct the juvenile justice system assessment, develop recommendations, and provide a final report by July 22, 2022. In support of this effort, the Task Force partnered with The Council of State Governments (CSG) Justice Center—selected through a competitive process—to conduct the assessment and facilitate the recommendation development process. The CSG Justice Center is a national, nonprofit organization that combines the power of a membership association, representing state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

MEMBERS OF THE MICHIGAN TASK FORCE ON JUVENILE JUSTICE REFORM

Lieutenant Governor Garlin Gilchrist (Chair)

Judge Dorene Allen, Midland County

Commissioner Alisha Bell, Wayne County

Judge Karen Braxton, Wayne County

Representative Brenda Carter, 29th District

John Casteel, Western Wayne County Care Management

Supreme Court Justice Elizabeth Clement, Michigan Supreme Court

Cami Fraser, Executive director of a non-profit organization that provides legal services

Stine Grand, Assistant Attorney General

Sheriff Steve Hinkley, Calhoun County

Jeannine Gant, (formerly) President, Big Brothers Big Sisters Detroit and currently Diversity, Inclusion and Belonging Lead, Emerging World

Senator Kim LaSata, 21st District

Thom Lattig, Juvenile Court Director, Ottawa County

Representative Sarah Lightner, 65th District

Derrick McCree, Director, Division of Juvenile Justice, Department of Health and Human Services

Karen McDonald, Prosecutor, Oakland County

Dr. Michael Rice, State Superintendent

Chief Everette Robbins II, Huron Township

Senator Sylvia Santana, 3rd District

Jason Smith, Executive Director, Michigan Center for Youth Justice

Kimberly Thomas, Co-director, Juvenile Justice Clinic, University of Michigan Law School

Commissioner Marlene Webster, Shiawassee County

Colbert Williams, Co-Founder and Co-Executive Director, The Delta Project

TASK FORCE MEETINGS AND ASSESSMENT PROCESS

The Task Force met nine times since its inception and was united in the goal of seeking to better understand the juvenile justice system and opportunities to improve it. Meetings provided members with an overview of Michigan's system at the state and local levels, from diversion through reentry, as well as financing and data collection. Members also received detailed presentations, based on the assessment process, on system strengths and challenges. Finally, Task Force meetings included a focus on uplifting local court and county best practices within Michigan as well as best practices from other states across the country. Meetings included robust discussion and helped build a growing consensus over time on the need to improve key aspects of the system statewide.

Meetings were recorded and made available to the public on the [Task Force website](#) hosted by the Michigan Committee on Juvenile Justice.

ASSESSMENT SCOPE AND QUALITATIVE ACTIVITIES

The Task Force, with support from the CSG Justice Center, conducted an unprecedented assessment of Michigan's juvenile justice system. Qualitative assessment activities encompassed a review of local and state policies and practices and extensive efforts to garner the perspectives of stakeholders across the system on strengths and opportunities for improvement. Activities included the following:

- Comprehensive review of juvenile statute, court rules, and administrative policies
- More than 100 focus groups and interviews with stakeholders from across the state to better understand how the juvenile justice system functions. Conversations included, but were not limited to, representatives from the following groups:
 - Law enforcement
 - School resource officers
 - Court administrators
 - Judges and referees
 - Detention staff
 - Line-level probation officers and probation managers
 - Prosecutors
 - Public defenders
 - Community-based and residential service providers (local, private, and state operated)
 - Michigan Department of Health and Human Services (MDHHS) juvenile justice, child welfare, behavioral health, finance, data, and other staff and leadership
 - Education officials
 - Community mental health and other behavioral health professionals
 - Advocates
 - Tribal populations
 - Youth and families with lived experience in the juvenile justice system

- Ongoing conversations with juvenile justice agencies, associations, and other stakeholders to review and reflect on the assessment findings including but not limited to the following:
 - Michigan Association for Family Court Administration
 - Michigan Association of Circuit Court Administrators
 - Michigan Probate Judges Association
 - Michigan Judges Association
 - Referees Association of Michigan
 - The Prosecuting Attorneys Association of Michigan
 - Michigan Juvenile Detention Association
 - Michigan Association of Chiefs of Police
 - Michigan Sheriff’s Association
 - Michigan Association of Counties
 - Michigan Federation for Children and Families

The CSG Justice Center tried to ensure that focus group participants represented Michigan’s geographic diversity with representation from urban, exurban, and rural communities. Further, efforts were made to ensure that the voices and perspectives across the focus groups included demographic representation of people impacted by the justice system.

QUANTITATIVE ANALYSIS

In addition to the qualitative assessment, the CSG Justice Center examined case-level data on youth in the juvenile justice system. Case-level data were provided to the CSG Justice Center by the MDHHS, the State Court Administrative Office (SCAO), and a sample of 32 individual county courts. The courts that shared data with the CSG Justice Center provided information on juvenile cases from petition filing date through adjudication over a 5-year period (2016–2020) and covered approximately 55 percent of the state juvenile population (ages 10 to 16). Data provided by MDHHS included information on statewide juvenile and dual status (child welfare and juvenile justice involved) cases placed under the supervision of the state from 2015 to 2020.

The CSG Justice Center’s efforts to obtain and analyze systemwide data, however, also highlighted a number of data gaps and challenges at the county and state levels that limited a more robust data analysis. These challenges include non-standardized and incomplete race, ethnicity, offense, violation, placement, and risk data across counties and an inability to clearly distinguish state from county wards within local court data for youth placed post-disposition.

ASSESSMENT FINDINGS IN CONTEXT: WHAT WORKS TO IMPROVE COMMUNITY SAFETY AND YOUTH OUTCOMES

The findings of the assessment process were presented to the Task Force and other stakeholders and were grounded in what research shows works to reduce juvenile recidivism, reduce system disparities, and ensure that resources are used efficiently to improve community safety. This research and related

state and local best practices are summarized in [Core Principles for Reducing Recidivism and Improving Other Outcomes for Youth in the Juvenile Justice System](#), which emphasizes the following:

1. Base supervision, service, and resource allocation decisions on the results of validated risk and needs assessments.
2. Adopt and effectively implement services demonstrated to reduce recidivism and improve other youth outcomes and use data to evaluate system performance and guide improvements.
3. Employ a coordinated approach across service systems to address youth's needs.
4. Tailor system policies and programs to reflect the developmental needs of adolescents.

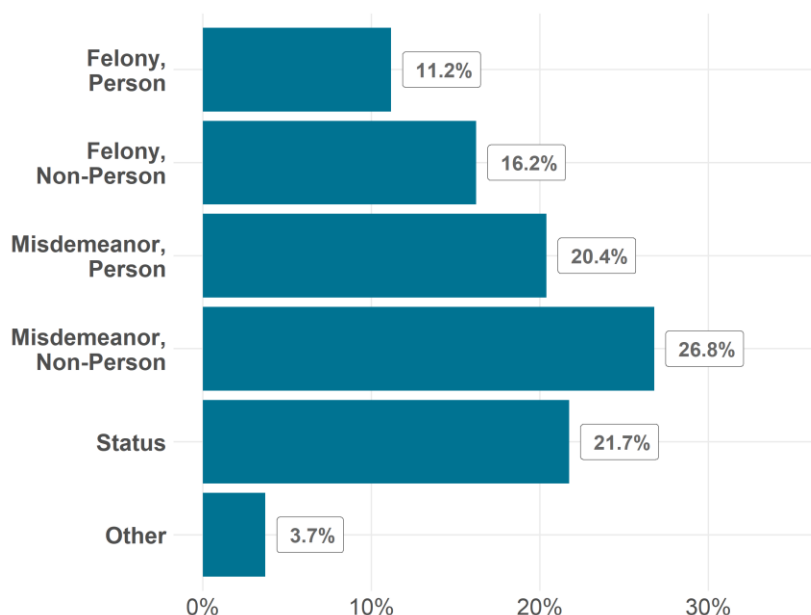
JUVENILE JUSTICE SYSTEM ASSESSMENT: KEY FINDINGS

The assessment of the juvenile justice system identified key strengths, including innovative, research-based approaches that are currently implemented by counties and local courts throughout the state such as pre-court diversion programs, use of risk and needs assessments, and investments in evidence-based, community-based programs. What follows is a summary of the key findings related to system gaps and challenges. Comprehensive assessment findings, including both strengths and challenges, can be found on the [Task Force website](#) hosted by the Michigan Committee on Juvenile Justice, particularly the February, March, and April meetings.¹

KEY FINDINGS

1. **Michigan lacks the policy framework and service infrastructure necessary to ensure that youth who are at a low risk of reoffending are diverted from the juvenile justice system statewide.**
 - a. Diversion eligibility, processes, tools, and practices differ significantly across the state.
 - b. Nearly half of all petitions between 2016 and 2019 were for status² and non-person misdemeanor³ offenses.⁴ (See Figure 1.) Nearly 12 percent were for youth ages 12 and under.⁵ (See Figure A1 in Appendix A.)
 - c. The Child Care Fund (CCF)—the primary statewide juvenile justice funding structure—requires a court referral and the provision of intensive supervision, which makes it challenging for jurisdictions to use these dollars for pre-court or pre-arrest diversion.

Figure 1. Petitions by Offense Type, 2016–2019

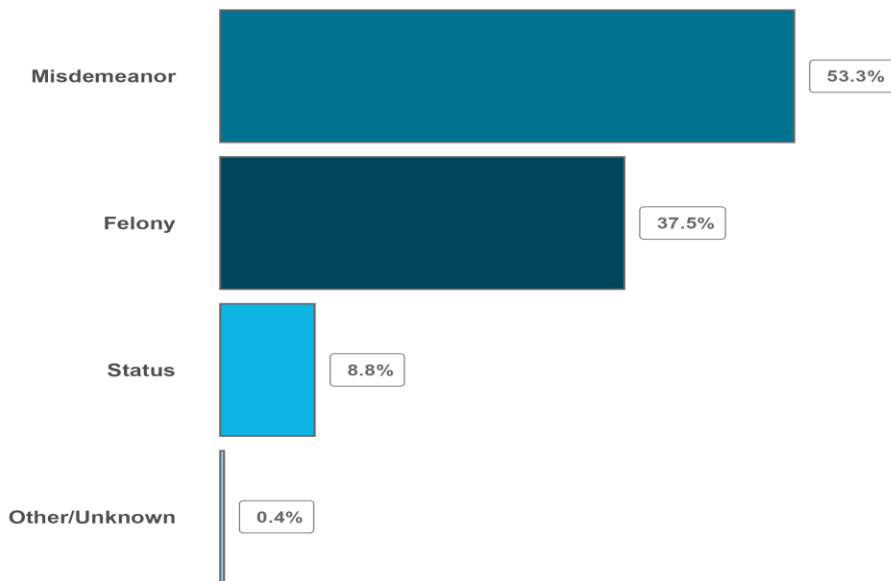


2. **Many elements of the juvenile court process and probation supervision are not aligned with research and developmentally appropriate practices across the state.**
 - a. Limited statewide guidelines, standards, or tools exist to guide dispositional decisions, lengths of time on supervision, and supervision practices.
 - b. The juvenile justice system imposes numerous fines/costs on youth and their families. In 2019, 41 percent of juvenile court cases had a fine ordered or an associated cost.⁶
 - c. Youth and families often must pay attorney fees, in addition to other costs imposed by the system, which can result in youth waiving an attorney or pleading their cases quickly. In 2019, the median amount paid for reimbursement costs (placement, evaluation, treatment) was \$850, with 11 percent of cases paying more than \$1,000.⁷
3. **Michigan has no centralized structure and minimal standards, supports, or resources for juvenile public defense statewide.**
 - a. There is no statewide system nor are there standards or monitoring processes in place to ensure that youth in the juvenile justice system receive adequate defense services.
 - b. Lack of statewide funding for juvenile defense has resulted in significant variation in local systems in terms of accessibility to trained, qualified defenders; the types of services that are available; and when in the court process counsel is appointed.
4. **Michigan lacks statewide policies and tools to ensure that predisposition detention is used only for youth who are a public safety or flight risk.**
 - a. Local detention decision-making protocols vary considerably with minimal use of validated screening tools to inform these decisions. Over 60 percent of youth placed in

detention have committed a status or misdemeanor offense as their most serious offense (see Figure 2).

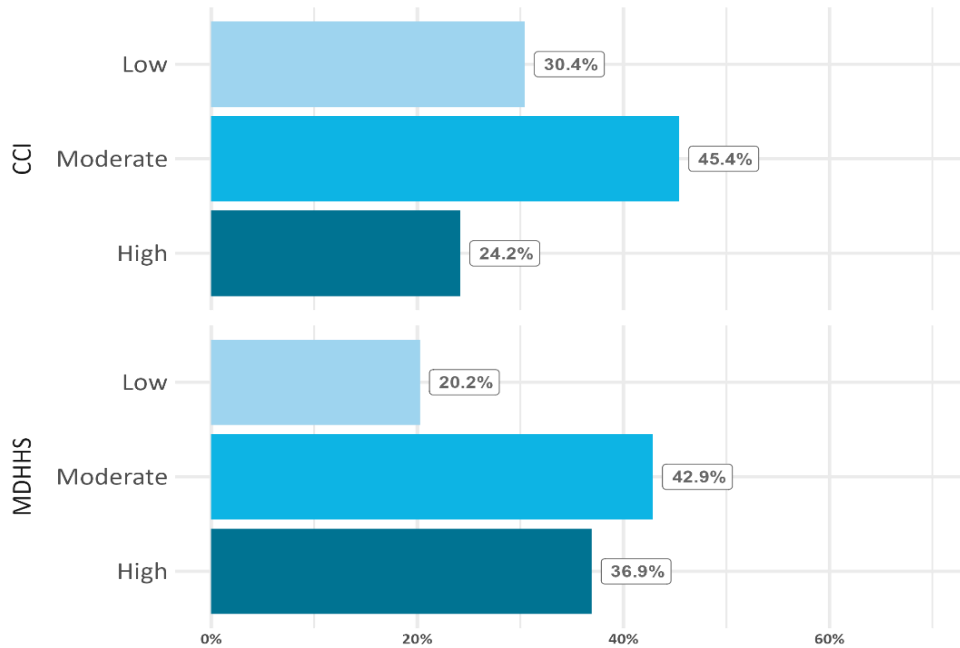
- b. From 2016 to 2019, 1 in 3 youth stayed in detention longer than 30 days; currently, youth remain in detention facilities for months awaiting placement.⁸ (See Figure A2.)
- c. Detention licensing standards differ between court- and county-operated facilities, do not reflect trauma-informed practices, and have limited quality assurance.

Figure 2: Predisposition Detentions by Most Serious Offense, 8 Counties, 2016–2020



- 5. **Michigan has minimal state laws, court rules, or funding incentives that guide the use of post-disposition residential placements.**
 - a. Michigan does not have statutory age, offense, or risk level limitations on the use of post-disposition residential placements. As a result, more than 60 percent of youth placed in privately operated facilities (CCI) and three-quarters placed in state-operated facilities (MDHHS) as state wards from 2016 to 2020 were assessed as being at a low or moderate risk to reoffend.⁹ (See Figure 3.)
 - b. Almost 90 percent of state wards who started in a state-operated facility and 70 percent who started in a privately operated facility from 2015 to 2018 spent 9 months or more out of home.¹⁰ (See Figure A3.)
 - c. The CCF does not provide financial incentive for local courts to maintain youth in the community given that community-based and residential placements are reimbursed at the same rate (50 percent). There are few dedicated funding mechanisms available to locales to develop community-based alternatives to detention and incarceration.

Figure 3. Disposition Risk Level for State Supervised Youth Placements, 2016–2020



6. **The quality of services and case management received by youth in post-disposition residential placements differs significantly by county, wardship, and facility.**
 - a. There is limited statewide strategy or investment in ensuring that state- and privately operated facilities employ specific, evidence-based, culturally competent programs and practices proven to be effective for justice-involved youth.
 - b. State and county staff, and young people themselves, cite a dearth of reentry services, especially for older youth, including behavioral health services, housing, independent living programs, and programs for youth who commit sex offenses.
 - c. Delays, confusion, and lack of coordination over how to reinstate Medicaid upon reentry hinders a continuity of care, leaving youth without necessary medication and services.

7. **The residential system suffers from inherent structural challenges that undermine bed availability and quality.**
 - a. There has been historic and ongoing inattention to the needs of the juvenile justice system, including ensuring that the state has the capacity, staff expertise, systems, and resources needed to support sufficient and effective residential service delivery.
 - b. The disjointed nature of the residential system hampers bed planning, matching youth to the most appropriate level of care, and crisis management.
 - c. Michigan’s approach to funding residential placements—including low per diem rates, no unfilled bed rate, lack of MDHHS control over funding rates, and lack of competitive procurement—hinders provider stability, staffing, and the efficient use of resources.

8. **Black youth are disproportionately represented in all parts of the juvenile justice continuum, and few statewide structures exist to address disparities.**
 - a. Black youth are petitioned for court at 2 times the rate of White youth and are more than 1.5 times as likely to be adjudicated¹¹ as their White peers.¹²
 - b. Black youth are detained at six times the rate of White youth, and the average length of stay in detention is seven days longer.¹³ (See Figures A4 and A5.)
 - c. Black youth are placed as state wards at three times the rate of White youth, and there is limited attention statewide to ensuring that the residential system is equipped to serve youth of color effectively.¹⁴ (See Figure A6.)
9. **There is no statewide quality assurance system to ensure that local courts, the state, or private providers are implementing programs and practices effectively.**
 - a. There is no statewide infrastructure to guide or hold local courts accountable for implementing research-based programs and practices.
 - b. There is no dedicated quality assurance infrastructure to assess the quality of services provided by state- or privately operated facilities serving justice-involved youth beyond broad health and safety licensing standards and associated reviews.
10. **Data are unavailable or unreliable to answer basic questions about the juvenile justice system's performance across decision points and to guide system decisions and improvement.**
 - a. Michigan lacks statewide performance measures, data systems, analytic capacity, and reporting processes to measure community-based and out-of-home placement outputs, outcomes, or performance such as recidivism or other youth outcomes.

TASK FORCE RECOMMENDATIONS FOR JUVENILE JUSTICE SYSTEM IMPROVEMENT

RECOMMENDATION DEVELOPMENT PROCESS

The recommendation development process was a comprehensive, transparent, collaborative effort that involved a range of diverse stakeholders with varying perspectives. This process included synthesizing input from hundreds of interviews and focus groups, including with youth and families directly impacted by the system. Additionally, 8 issue-specific working groups, consisting of Task Force members and other stakeholders, formed in early 2022 and met regularly to identify recommendations for the Task Force. These working groups (see Appendix B) were organized around the following topics:

1. Competency
2. Court Processing
3. Data
4. Diversion
5. Juvenile Defense

6. Financing
7. Out-of-Home Placement
8. Waiver

The working groups included representatives from the Task Force and practitioners who were experts in the identified topic areas, as well as law enforcement, court staff, impacted parents, judges, referees, legislators, and others. The recommendations were also guided and shaped by four constituency advisory groups (see Appendix C). The four advisory groups were as follows:

1. Tribal Advisory Group
2. Advocates
3. Impacted Parents
4. State Court Administrative Office

These groups met tirelessly over months to review the assessment findings and heard from representatives within Michigan and other states about best practices. Through extensive conversations, they achieved consensus on a set of research-based recommendations that they believe will improve community safety, reduce disparities, and improve outcomes for youth and families across the state.

To aid in this process, the majority of the recommendations are intended to be implemented with delayed effective dates to allow time for thoughtful planning and ensure that the proper resources and local and state capacity are in place prior to implementation.

RECOMMENDATIONS APPROVED BY THE TASK FORCE

Every recommendation that follows was reviewed, discussed, and formally voted on by members of the Task Force during the July 18, 2022, Task Force meeting. The details of the recommendations that were approved appear below, including in parentheses whether those recommendations were approved unanimously or by two-thirds consensus.



The Task Force is excited about the comprehensive, research-based blueprint these recommendations provide to transform Michigan’s juvenile justice system. Members are committed to continuing to work across branches of government and with an array of stakeholders at the state and local levels to translate these recommendations into concrete legislative, court rule, administration, and funding changes and to support their adoption and effective implementation statewide.

SYSTEM STRUCTURE AND FUNDING PRIORITIES

1. **Enhance the Child Care Fund (CCF) to focus on establishing a minimum framework of juvenile justice best practices statewide. These best practices will be supported by an increase in the community-based services/supervision reimbursement rate for counties and tribes in order to incentivize and support the development, expansion, and strengthening of community-based services and formal alternatives to detention and incarceration. (UNANIMOUS¹⁵)**
 - a. Increase the state reimbursement rate from 50 percent to 75 percent for community-based supervision and services (including respite/shelter). Maintain the 50 percent state reimbursement rate for residential services (detention and post-disposition longer term residential placements).
 - b. This increased rate would also incorporate costs related to Raise the Age (transitioning in the final year of the current Raise the Age funding model) such that the CCF becomes an integrated source of funding for Raise the Age and CCF funding.
 - c. As part of the increased reimbursement rate for community-based services, require local courts to 1) adopt a validated risk screening tool to guide diversion decisions 2) adopt a validated risk assessment tool for use prior to disposition 3) adopt a detention screening tool 4) adhere to best practice probation standards, including officers being certified in these standards every two years 5) employ a local quality assurance specialist to support the above practices (excluding counties/tribes that receive the basic grant) and 6) form cross-systems youth service committees at the local/regional level to promote collaboration and resource efficiencies.
 - d. Expand use of the CCF so that local courts and tribes can use funding as they see fit for pre-arrest diversion through reentry, eliminate “intensive” requirements so counties can match supervision/services to youth’s risk level, and streamline administrative requirements.
 - e. Create a statewide CCF advisory committee composed of juvenile justice association members, local court/county representatives, prosecutor and defense attorney representatives, tribal representatives, MDHHS, advocates, and impacted populations, to support evidence-based practice implementation and statewide capacity building.
2. **Establish and fund a new Juvenile Justice Services Division within the State Court Administrative Office (SCAO). (UNANIMOUS)** The Division will do the following:
 - a. Coordinate statewide implementation of risk/needs and detention screening and assessment tools.
 - b. Provide technical assistance and quality assurance for local implementation of research-based policies, programs, and practices.

- c. Help coordinate statewide court policies, funding, data collection, and reporting, including CCF performance measures such as the use of structured decision-making tools, overrides, and equity.
 - d. In fulfilling this capacity, SCAO may partner with a third-party, such as with a Michigan university, to support technical assistance and quality assurance activities.
3. **Expand the Michigan Indigent Defense Commission (MIDC) to include development, oversight, and compliance with youth defense standards in local county defense systems. (UNANIMOUS)**
- a. MIDC shall align current and/or develop new standards with specific considerations for the representation of youth in the juvenile justice system, including requirements for specialized training for juvenile defenders on trauma, youth development, and cultural considerations, scope of representation and role of counsel, and other key standards.
 - b. Commissioners knowledgeable about indigent youth defense shall be included on the MIDC.
 - c. Standards should address the scope of representation including appointment at the first stage of consent/formal proceedings, and at every stage until the case is terminated. Youth shall have counsel at the first stage of juvenile proceedings.
 - d. Restrictions on the waiver of counsel in delinquency cases should be built into the statute/ and or court rule and include consultation with an attorney prior to waiving the right.
 - e. Expand the State Appellate Defender Office to include appellate services for juveniles, which will include post-dispositional services.
 - f. Training on juvenile justice is critical for prosecutors. It is encouraged that a juvenile justice resource attorney position be created and funded at the Prosecuting Attorneys Coordinating Council (PACC)
4. **Establish a statewide residential advisory committee composed of juvenile justice association members, local representatives, tribal representatives, advocates, prosecutors, defense attorneys and other stakeholders including impacted youth and families, and MDHHS. (UNANIMOUS)**
- Responsibilities for this committee include the following:
- a. Work with MDHHS to standardize and strengthen local detention and privately-operated residential facility licensing standards, service standards, staff training, length-of-stay guidelines, as well as minimum statewide state/county ward case management standards.
 - b. Develop statewide strategies, policies, and/or recommendations to address the crisis in availability of therapeutic residential placements. This must include treatment for mental health needs and the needs of developmentally disabled youth.
 - c. Work with DHHS to establish a clearinghouse for all placements in the state.
 - d. Recommend criteria to measure progress toward evidence-based outcomes that are set for a youth to assist in documenting the effect of residential interventions.
 - e. In partnership with MDHHS, establish juvenile justice specific quality assurance and improvement processes for these facilities and share performance information statewide.
 - f. Develop statewide strategies, policies, and/or recommendations on alternatives to detention and incarceration (such as the use of kinship care and respite).

- g. Advise and coordinate with MDHHS on the development of a larger, transformational statewide strategic plan for residential bed planning, procurement, and bed management.
- 5. **Require the establishment of cross-systems, cross-government, county/regional/tribal youth service committees (as part of existing human service committees) to improve service availability, access, and coordination of CCF and other service system’s funding for youth at risk of entering or who are in the juvenile justice system. These committees will also be responsible for strengthening reentry services and supports for youth placed out of home regardless of wardship. (UNANIMOUS)**
 - a. These committees would be composed of representatives from local courts, tribes, state child welfare and juvenile justice staff, local community mental health centers, service providers, schools, advocates, prosecutors, defense attorneys, and impacted youth and families. Committees shall include representatives of tribes with service areas in the same region.

DIVERSION

- 6. **Establish 13 as the minimum age for juvenile court jurisdiction. (CONSENSUS¹⁶)**
 - a. An exception is made for youth committing a “specified juvenile violation” as defined in 712A.2 of Michigan’s Probate Code (i.e. most serious offenses).
 - b. Youth under the age of 13 could still be referred to probation through an alternative referral process, in lieu of an arrest or petition, to access services for themselves and their families, if necessary. Courts/tribes will be able to use the CCF to support services, including court-operated service programs, for this population.
 - c. Consistent with the federal Indian Child Welfare Act and the Michigan Indian Child Welfare Act, for cases involving a child who is enrolled or eligible for enrollment in a federally recognized tribe and is referred to probation instead of into court, notice shall be sent to the child’s tribe, the tribe shall be allowed to participate in the case, and the case can potentially be transferred to the court of the child’s tribe.
- 7. **Require the use of a validated risk screening tool and a validated mental health screening tool to inform diversion and consent calendar decisions. Expand the Diversion Act so that all offenses—except for the most serious ones, which shall be enumerated—are eligible for pre-court diversion based on established local criteria and the use of a risk screening tool. (UNANIMOUS)**
 - a. The risk screening tool and mental health screening tool shall be conducted prior to a decision being made to offer diversion or the consent calendar.
 - b. Courts can use the risk screening tool that best fits their needs based on statewide guidelines for the tool and its appropriate use. Part of the implementation planning process will include establishing criteria for ensuring the tools used are validated and research based, including for youth of all races/ethnicities to prevent bias. Currently, the Michigan Juvenile Assessment Tools meet these criteria and are freely available to all parties.

- c. Tools would inform, not replace, professional discretion; counties would retain full discretion to make whatever decisions they believe are in the best interests of community safety and youth outcomes.
 - d. A “specified juvenile violation” as defined in 712A.2 of Michigan’s Probate Code will not be eligible for diversion under the Diversion Act.
8. **All youth who commit status offenses shall be referred to a court officer, or another party designated by the local court, pre-petition, to conduct a validated risk screening. Youth screened as low risk are diverted to collaborative community programs or other services that are evidence-based or culturally approved by a Tribe if the youth is American Indian. (UNANIMOUS)**
- a. After screening, a formal petition for a youth committing a status offense may be considered, with a requirement for written documentation by the court officer, and ultimately by the court, articulated on the record, if placed under court supervision, for why diversion was not used.
 - b. A state funded pilot program to remove status offenses completely from court jurisdiction shall be created in a diverse set of counties. Counties participating in the pilot program will provide services for diverted youth and shall receive technical assistance from the new SCAO Juvenile Justice Services Division.
 - c. It is encouraged that local courts create a protocol at the county level between the court, the prosecutor, public defender, schools, tribes, and other community stakeholders to address status offenses based on available resources and services.
 - d. Consistent with the federal Indian Child Welfare Act and the Michigan Indian Child Welfare Act, for cases involving a child who is enrolled or eligible for enrollment in a federally recognized tribe and is referred to court officer/probation for status offenses, notice shall be sent to the child's tribe prior to the screening, the tribe shall be allowed to participate in the case, and the cases can potentially be transferred to the court of the child's tribe.
9. **Align pre-court diversion and consent calendar conditions with research and developmental science. (UNANIMOUS)**
- a. Limit the length of time that a youth can be placed on pre-court diversion to no longer than three months, and to no longer than six months for youth on the consent calendar, unless the court determines, and articulates on the record, a longer period is needed for youth to complete a specific treatment program.
 - b. Eliminate fees associated with participation in pre-court diversion and the consent calendar.
 - c. Eliminate the possibility that restitution can be used to exclude eligibility for pre-court diversion and the consent calendar.

COURT PROCESSING

10. **Require a validated risk and needs assessment to be conducted for all youth prior to disposition, and the results of the validated risk and needs assessment to be used by prosecutors, defense attorneys, the court, and other parties to the case to determine the most appropriate disposition**

commensurate with public safety, victim interests, rehabilitation, and improved youth outcomes including but not limited to educational advancement. (UNANIMOUS)

- a. Local courts can select and use whichever tool fits their needs if it is research-based and validated. Part of the implementation planning process will include establishing criteria for appropriate tools and their use, including specific consideration to ensure that the tools are validated and don't perpetuate bias for youth of color. Currently, the Michigan Juvenile Assessment Tools meet these criteria and are freely available to all parties.
- b. Support the use of a mental health screening tool pre-disposition, and the referral of a client to a full mental health assessment if warranted.
- c. Reassessments shall be conducted at least every six months or when there is a major life event or change in the case.
- d. A dispositional review hearing will be conducted at least at the six-month mark—if not before—to consider whether youth still require system supervision, and at least every three months if applicable thereafter.

11. SCAO, with proper funding and in partnership with local probation departments and other stakeholders, shall establish statewide, research-based, juvenile specific probation standards and guidelines. (UNANIMOUS)

- a. Areas for standards include the use of risk and needs screening and assessment, detention screening and decision making, case planning, tailoring and individualizing probation conditions, improving youth and family engagement, using graduated responses and incentives, reviewing data, and addressing racial and ethnic disparities.
- b. SCAO shall "certify" local probation officers and court staff in these standards through a required training institute every two years, as per a requirement of the CCF, and provide ongoing training, technical assistance, and quality assurance on these standards.

12. The age of presumed competence will align with the minimum age of jurisdiction. (UNANIMOUS)

- a. Expand competency evaluation reports to include an individualized, sustainable mental/behavioral health service referral.
- b. In competency determinations, courts shall not consider just the physical age of the child, but the mental age and ability to comply with and benefit from court ordered services.
- c. Refine the definition of a restoration service provider and update the timeline for evaluation/remediation/treatment by removing the 30- and 60-day extensions unless adequate resources are unavailable.
- d. MDHHS, in collaboration with the newly created SCAO Juvenile Justice Services Division, shall maintain a list of approved providers to evaluate juvenile competency considering these factors.
- e. Expand judges' ability to dismiss felony offenses for youth found incompetent.
- f. Under the revised CCF, competency evaluations and restoration and treatment services conducted after a youth is found incompetent would be eligible for reimbursement.

13. **Establish a statewide study committee on juvenile waivers that will be charged with reviewing available data on the use of juvenile waivers and designations, identifying challenges and barriers with current policies and practices, examining national research and best practices, and developing a final report that includes recommendations for improvement, which shall be submitted to the governor, SCAO, and legislature. (UNANIMOUS)**
14. **Ensure that factors considered by the court for traditional waivers and designations account for youth’s developmental maturity and emotional and mental health, and their ability to get more treatment and rehabilitation for these needs in juvenile court. (UNANIMOUS)** Factors to be considered include the following:
 - a. The seriousness of the offense and aggravating factors, the youth’s culpability, and the youth’s risk to public safety
 - b. The youth’s prior delinquency history including only the youth’s prior record of acts that would be crimes if committed by an adult
 - c. The emotional and mental health and maturity of the youth
 - d. The amenability of the youth to treatment and rehabilitation in the juvenile justice system
 - e. Cultural considerations
 - f. Prior treatment efforts and out-of-home placements
 - g. Impact on the victim
15. **Eliminate most non-restitution fees and costs associated with juvenile justice system involvement. (UNANIMOUS)**
 - a. Juvenile court and probation cannot assess fees/costs except for restitution, or a fee/cost related to the Crime Victims Fund.
 - b. For fees related to the Crime Victims Fund as well as for restitution, establish a standard procedure for ability to pay, determination of payment schedule, and total to be assessed.
16. **Restrict the ability to extend consent calendar and probation supervision solely for the purpose of collecting restitution. Restitution orders will still be maintained through the show cause process if probation supervision is terminated. (UNANIMOUS)**

OUT-OF-HOME PLACEMENT

17. **Require a validated detention screening tool to be used statewide, prior to detention decisions, as a guide for detention placement decisions and establish clear statutory legal authority for what entities can make detention decisions. (UNANIMOUS)**
 - a. Detention is short-term confinement and used to ensure public safety or risk of flight from court processes. Detention is not normal or routine and all options of community-based placement must be explored by the Court prior to the use of detention, and a decision shall be made on the record subject to due process safeguards.

- b. The working group recommended statewide adoption of a single detention screening tool, given that most counties do not currently use any tool. SCAO, in coordination with the CCF advisory committee, would help to develop and promulgate standards and protocols for the tool's appropriate use and overrides, provide training, and oversee data collection.
 - c. An expedited review hearing shall be held monthly on the record to determine the suitability and continuation of the detention by the court.
- 18. Restrict the use of pre-adjudication detention for non-public safety reasons. (UNANIMOUS)**
- a. Detention can't be used solely for need-based reasons including the need for behavioral health treatment, family reasons, and self-protection.
 - b. Detention can't be used for youth who are solely adjudicated with a status or low-level misdemeanor offense (to be enumerated) as their most serious offense.
 - c. Exceptions can be made, articulated on the record, for youth who pose an imminent threat to public safety or flight risk.
 - d. Through the residential advisory committee, partner with MDHHS and other state agencies and experts as appropriate to develop a strategy and plan for increasing statewide capacity and use policies for kinship care, respite foster homes, crisis mobilization services, and other resources for use specifically as alternatives to detention.
- 19. Restrict the use of detention for violations of a court's orders that is not an independent delinquent (as opposed to status) offense. (UNANIMOUS)**
- a. Exceptions can be made, articulated on the record, for youth who pose an imminent threat to public safety or flight risk.
- 20. Establish a single, updated set of licensing/service standards for detention facilities that reflect developmentally appropriate, research-based, trauma-informed principles and practices, regardless of court/county operation. Create a robust annual quality assurance and review process for these facilities. (UNANIMOUS)**
- 21. Expand funding for the Regional Detention Support Services Program to focus on programmatic alternatives to detention such as crisis mobilization, respite, short-term shelter foster homes, and home detention monitoring and services, particularly targeted to rural and tribal communities. (UNANIMOUS)**
- 22. Require MDHHS—in partnership with the residential advisory committee, SCAO, and relevant juvenile justice associations—to examine the juvenile justice residential financing model, per diem rates, funding levels, bed allocation, bed locations and capital infrastructure, public/private management, and procurement methods of residential placements, and within one year, make legislative and funding recommendations to the governor's office and legislature for a revamped statewide juvenile justice residential structure. (UNANIMOUS)**
- a. Recommendations must provide for improved bed sufficiency and stability, qualified facility staffing and staff retention, keeping youth closer to home in smaller, more treatment-

oriented settings, the efficient use of resources for effective services, and improved public safety and youth outcomes, including but not limited to educational advancement.

23. **Provide MDHHS with statutory authority to adjust juvenile justice residential per diem rates within their appropriated fiscal budget, and make changes to provider service agreements to respond in a more flexible way to bed shortages, staff retention challenges, and service needs. (UNANIMOUS)**
24. **Through the residential advisory committee, establish a short-term, cross-system, case review process for counties/courts for youth remaining in detention for longer than 30-60 days awaiting placement, as well as for counties/courts and MDHHS for youth in private and state-run facilities for longer than 9-12 months, to help identify community-based or residential alternatives with the goals of reducing lengths of stay and freeing up bed capacity. (UNANIMOUS)**
25. **Through the residential advisory committee, establish a set of baseline case management standards for counties and MDHHS that must guide all long-term post disposition state and privately-run residential placements regardless of county or wardship, including ongoing use of risk and needs assessments, service delivery, behavioral health treatment, family/team meetings, dual ward policies, and reentry planning processes. (UNANIMOUS)**
26. **MDHHS shall, in partnership with the residential advisory committee, develop robust, juvenile-justice specific, evidence-based service standards for all state-run and privately-run juvenile justice residential placements regardless of facility or wardship. (UNANIMOUS)**
 - a. These standards shall include minimum risk/needs assessment, service, behavioral health, case management, family engagement, and reentry planning expectations.
 - b. These standards shall include length-of-stay guidelines informed by the treatment models used by facilities, youth's treatment progress, youth's risk level/most serious offense, and research and best practices from other states.
27. **Establish an independent ombudsman, or strengthen and expand an existing entity, for handling, investigating, and reporting incidents in facilities. (UNANIMOUS)**
 - a. Establish policies and confidentiality protocols that support youth/families to make complaints directly to this entity, anonymously, if necessary, rather than having to go through the facility in which a youth is currently placed.
28. **Establish a dedicated administrative process and protocols and MDHHS staff to support the timely reinstatement of Medicaid for youth leaving detention or longer-term residential facilities. (UNANIMOUS)**
 - a. Explore opportunities for Michigan Medicaid coverage to continue for youth in detention for medical and prescription care.

29. **SCAO should develop data standardization protocols and procedures for the collection and sharing of data by local courts that can be used to inform decision making and drive system improvement efforts. (UNANIMOUS)**
- a. Protocols for local courts collecting and sharing data with SCAO should include set data elements, performance measures (including equity measures), uniform definitions, and business rules that allows for statewide juvenile justice data aggregation, analysis, and reporting.
 - b. SCAO should develop an annual publicly available statewide data report on key performance measures.
30. **SCAO should establish robust quality assurance procedures to assess and address data quality issues and ensure data integrity, including conducting regular data reviews and developing resources and providing training for local courts. (UNANIMOUS)** Procedures will include the following:
- a. Reviewing local data exported into the JDW regularly to ensure required data elements are accurate, complete, consistent, current, and timely.
 - b. Establishing procedures to alert local courts when data quality issues are flagged and provide courts with an opportunity to correct required data elements within an agreed upon period.
 - c. Developing data definitions, data standards, and business rule guides that will be maintained online as resources for juvenile courts.
 - d. Providing regular training and timely updates to local juvenile court administrators and staff on data standards, business rules, and updates.

EQUITY AND YOUTH VOICE

31. **Establish statewide definitions and protocols for capturing race, ethnicity, and tribal data across data systems, and create a public equity data dashboard to establish a baseline and track progress on key measures of statewide disparities and improvements. (UNANIMOUS)**
32. **Establish a statewide youth and family juvenile justice advisory group to inform resource allocation decisions and ensure that policy adoption and implementation are vetted and supported by authentic youth and family participation, to include but not be limited to educational advancement while youth are in the juvenile justice system. (UNANIMOUS)**
- a. The statewide advisory group shall work with local courts and tribes, SCAO, and MDHHS to develop a statewide family engagement strategy, including family engagement policies and standards across diversion, court, probation, detention, and placement.

EXCEPTIONS TO RECOMMENDATIONS TO ENSURE RESPECT AND COMPLIANCE WITH TRIBAL SOVEREIGNTY

The Tribal Advisory Board to the Michigan Task Force on Juvenile Justice Reform requested carve outs for changes to Michigan law, rule, or policy recommended by the Task Force, including, but not limited to, any changes that may result in loss or modification to Child Care Fund reimbursement for tribes.

- The Tribal Advisory Board requests that provisions be put in place to prevent out-of-home placement and detention facilities in Michigan from rejecting or ejecting tribal wards based upon changes recommended by the Task Force that result in statutory, policy, or rule changes in Michigan that the tribes elect not to adopt within their individual jurisdictions.
- The Tribal Advisory Board will be recommending that status offenses remain unchanged to ensure that the State of Michigan continues to honor the terms and spirit of the Indian Child Welfare Act (25 U.S.C 1901 et seq.) and the Michigan Indian Family Preservation Act (MCL 712B.1 - 41).

The following draft language for these carve outs is presented by the Tribal Advisory Board to be considered:

“In order to respect tribal sovereignty, the eligibility requirements for reimbursement through [the Child Care Fund] under [insert citation for use of validated assessment tools, data collection requirements, detention limitation on length of stay/age/offense, residential placement limitation on length of stay/age/offense, probation oversight/training requirements, and detention review hearings] shall not apply to tribes. Reimbursement through the Child Care Fund for detention of tribal wards shall not be adjusted below 50%.”

General language for tribal no reject/eject clause in facility contracts:

“In order to respect tribal sovereignty, the department’s master contract for juvenile justice residential foster care services shall prohibit contractors from denying a referral for placement of a youth, or terminating a youth’s placement, if the youth’s assessed treatment needs are in alignment with the facility’s residential program type, as identified by a tribal court or the department when placing a temporary or permanent ward of a tribal court based upon the child’s age if the child is over 10-years old, type of offense, or use of a validated assessment tool. In addition, the master contract shall require that a ward of a tribal court placed in juvenile justice residential foster care facility must have regularly scheduled treatment sessions with a licensed psychologist or psychiatrist, or both, and access to the licensed psychologist or psychiatrist as needed.”

Note: This language is taken from 2020 PA 166 Sec. 709 and is meant to prevent facilities from being able to deny placement for tribal court wards based on the differences between a tribe’s laws and the changes made to Michigan statutes/policies/rules.

Appendix A: Data

Figure A1. Petitions by Age, 2016–2019

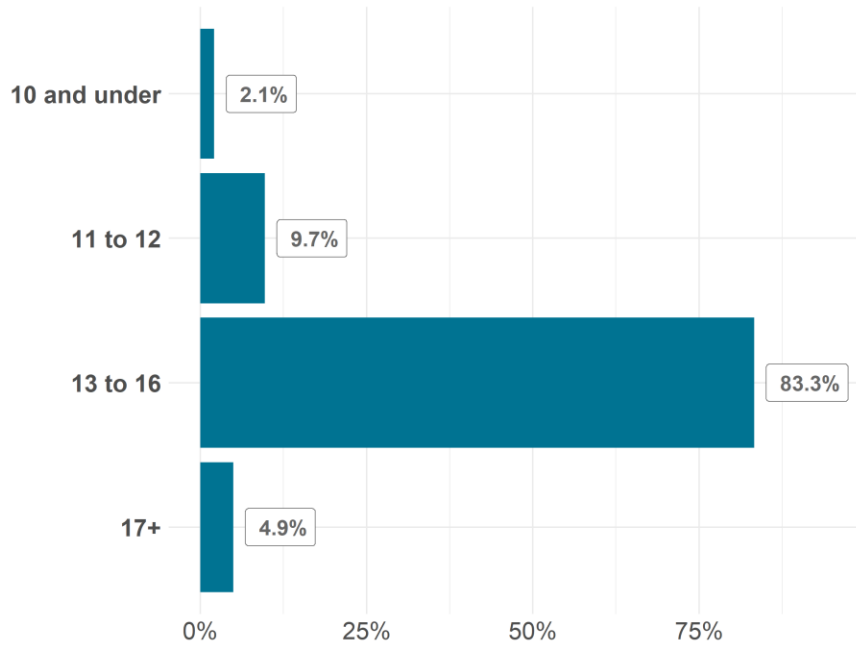


Figure A2. Length of Stay in Detention Distribution, 9 County Courts, 2016–2018

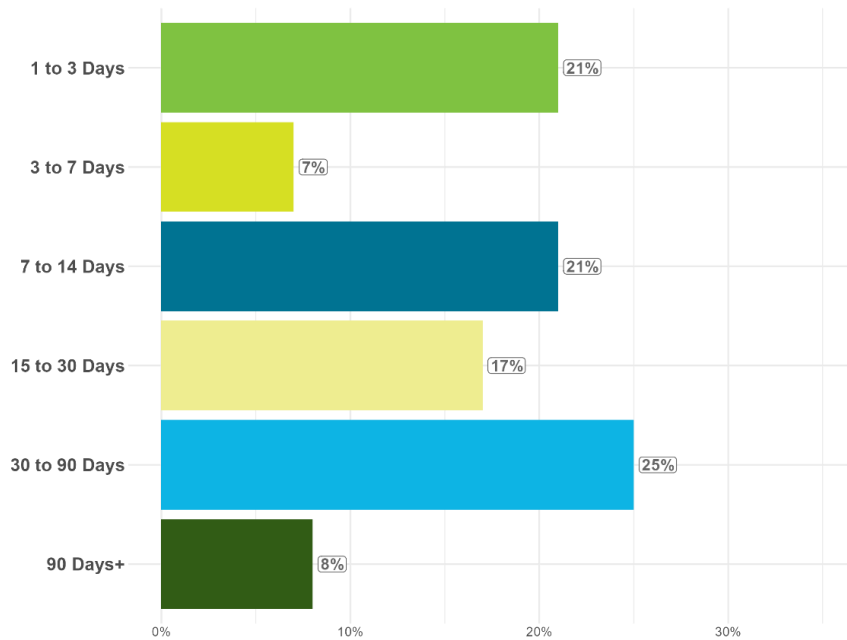


Figure A3. Total Length of Stay Distribution within Placement Episodes by Starting Placement for State Supervised Youth, 2015–2018

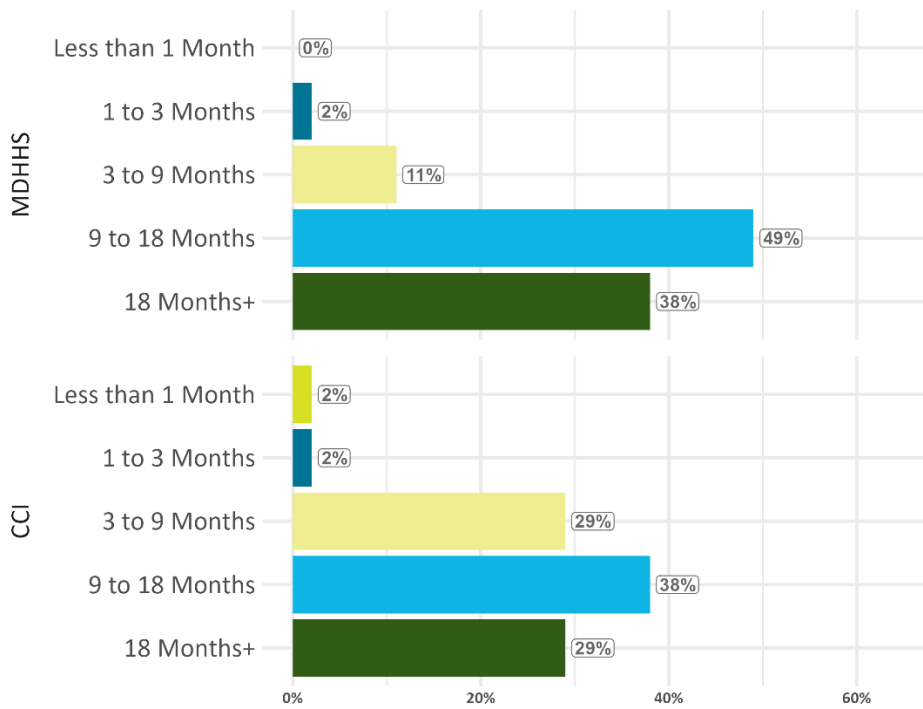


Figure A4. Relative Rate Index Black vs. White for Detention, 8 County Courts, 2016–2020

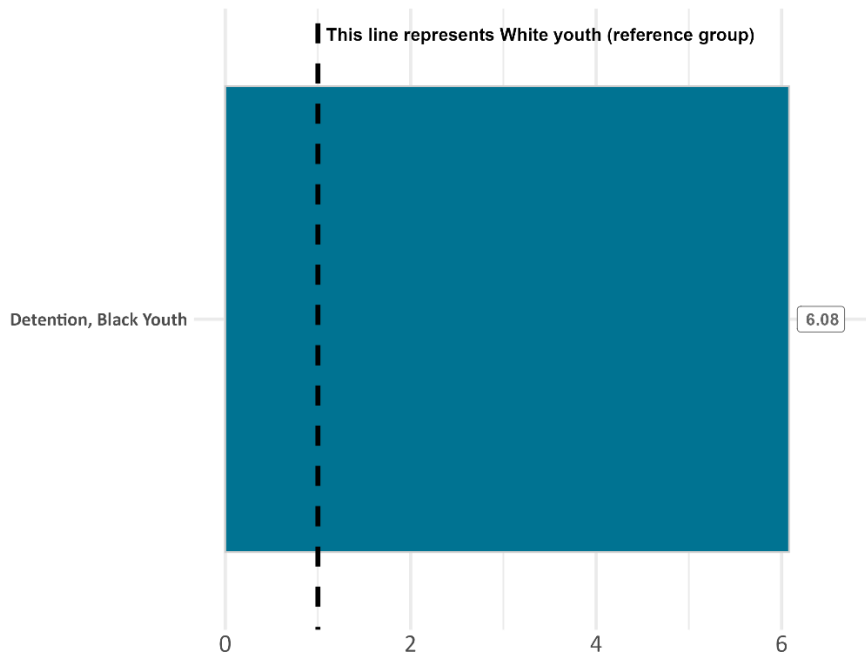


Figure A5. Average Length of Stay in Detention for Black vs. White Youth, 8 County Courts, 2016–2018

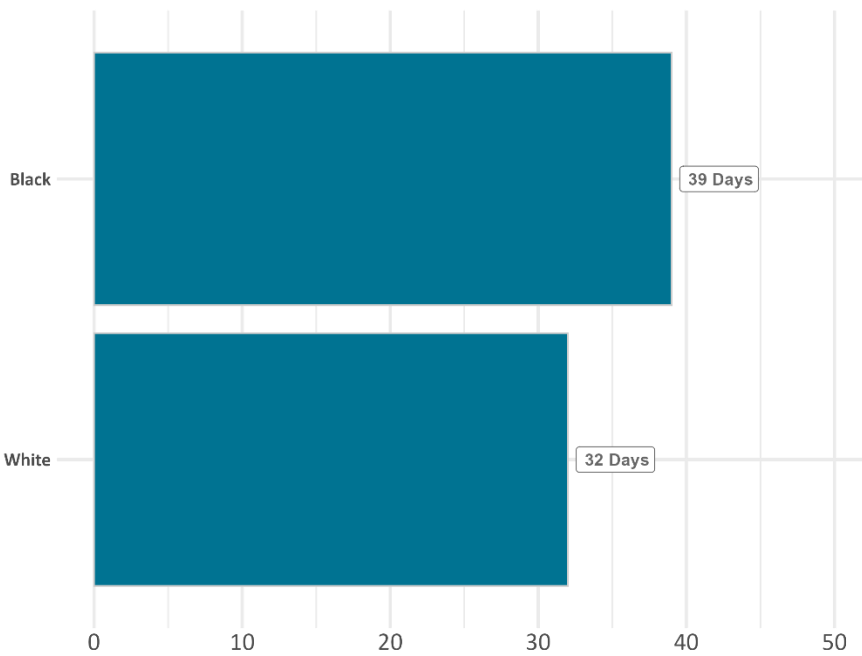
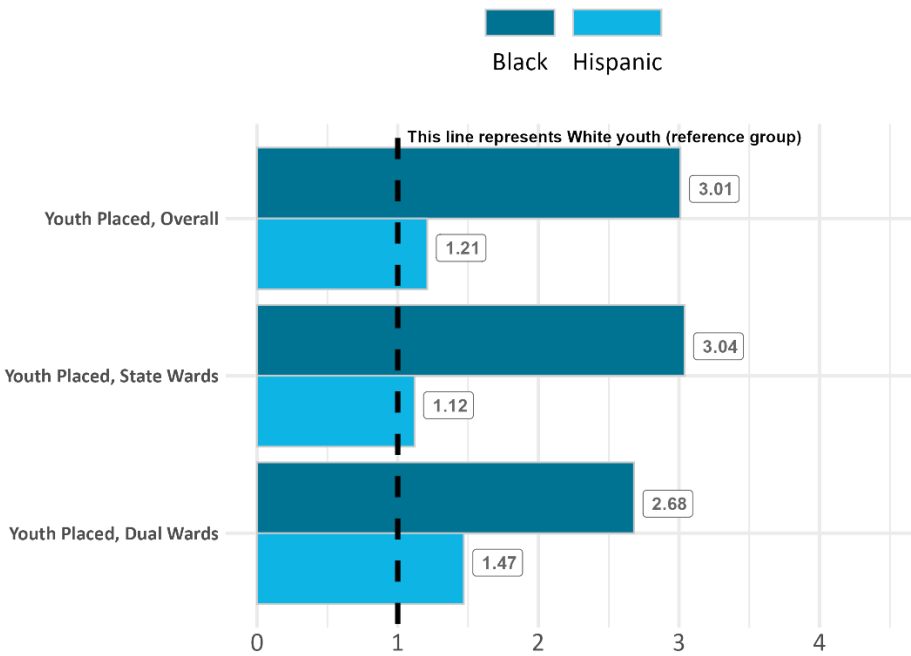


Figure A6. Relative Rate Index Disparities for State Supervised Youth Episodes, 2015–2020



Appendix B: Working Group Members

Finance Working Group

1. Hon. Kenneth Akini, Grand Traverse Band of Ottawa and Chippewa Indians Tribal Court
2. Casey Anbender, State Court Administrative Office
3. Megan Banning, Calhoun County
4. Robert V. Belleman, Saginaw County
5. Wendy Campau, Michigan Department of Health and Human Services
6. Soleil Campbell, Michigan Department of Health and Human Services
7. Hon. Susan Dobrich, Michigan Probate Judges Association
8. Jamie Fitak, Northern Michigan Juvenile Officers Association
9. Shannah Havens, Michigan Department of Health and Human Services
10. Mary Catherine Hannah, Alpena County
11. Teddy Jay, Michigan Department of Health and Human Services
12. Meghann Keit, (formerly) Michigan Association of Counties
13. Kamau Kheperu, Wayne County
14. Thom Lattig, Michigan Association for Family Court Administration
15. Rep. Sarah Lightner, Michigan House of Representatives, District 65
16. Mike McMillan, Michigan Association of Circuit Court Administrators
17. Tanya Morrow, State Court Administrative Office
18. Joe O'Connell, State Budget Office
19. Bob Schneider, Citizens Research Council of Michigan
20. Jodi Valentino, Roscommon County
21. Amy Zimmerman, Michigan Department of Health and Human Services

Diversion Working Group

1. Michele Bell, (Formerly) Midland County Circuit Court
2. Sean Burns, Kent Independent School District
3. Harriet Dean, Eaton County Truancy Intervention Program
4. Leigh Feldman, Cass County Circuit Court
5. Ann Heerde, Ottawa County Community Mental Health
6. Ebony Hemphill, Parent Representative
7. Bob Higgins, Michigan Committee on Juvenile Justice
8. Hon. Cheryl Hill, Marquette County Probate Court
9. Michelle Hill, Michigan Department of Health and Human Services
10. Rhonda Ihm, Genesee County 7th Circuit Court
11. Joe Jackson, Kent County Prosecutor's Office
12. Hon. Cheryl Lohmeyer, Monroe County Probate Court
13. Lynda McGhee, Michigan Children's Law Center
14. Manda Mitteer, Muskegon County Public Defender's Office
15. Erin Nostrandt, Saginaw Community Mental Health
16. Dave Pelon, Van Buren County Juvenile Court
17. Samantha Perry, Black Family Development
18. Melissa Reid, Oakland County Probation
19. Jill Simms, Marquette County Prosecutor's Office
20. Hon. Angela Sherigan, Little River Band of Odawa Indians Tribal Court
21. Jason Smith, Michigan Center for Youth Justice

22. Brandi Taylor, Wayne County Circuit Court

Court Processing Working Group

1. Darcy Brohman, Growth Works
2. Cameron Clark, Leelanau County Circuit Court
3. Clint Cook, Van Buren County Juvenile Probation
4. Melinda Fandel, Michigan Department of Health and Human Services
5. Hon. Richard Garcia, Ingham County Probate Court
6. Sarah Husyer, Clinton/Eaton Counties Defense Attorney
7. Lynn Johnson, Marquette County Circuit Court
8. Kathie Kolean, Ottawa County Juvenile Court
9. Scott LeRoy, Ingham County Circuit Court
10. Alisha Riedl, Muskegon County Circuit Court
11. Hon. Melissa Pope, Nottawaseppi Huron Band of the Potawatomi Tribal Court
12. Jaclyn Sivers, Oakland County Prosecutor's Office
13. Kristen Staley, Michigan Indigent Defense Commission
14. Linda Strasz, Tuscola County Juvenile Office
15. Hon. Matthew Switalski, Macomb County Circuit Court
16. Kimberly Thomas, Juvenile Justice Clinic, University of Michigan
17. Tom Weichel, Alcona County Prosecutor's Office
18. Cole Williams, The Delta Project

Out-of-Home Placement Working Group

1. Hon. Kenneth Akini, Grand Traverse Band of Ottawa and Chippewa Indians Tribal Court
2. Hon. Dorene Allen, Midland County Probate Court
3. Chris Anderson, Eaton County Prosecutor's Office
4. Soleil Campbell, Michigan Department of Health and Human Services
5. Terina Carte, Private Contracted Attorney, Genesee County
6. Marc Crotteau, Calhoun County Circuit Court
7. Mary Joe French, Muskegon County Juvenile Transition Center
8. Dan Gibson, Clinton County Juvenile Court
9. Elvin Gonzalez, Berrien County Trial Court
10. Renee Gonzales, Michigan Department of Health and Human Services
11. Rhonda Ihm, Genesee County 7th Circuit Court
12. Dante Jennings, Detroit Behavioral Institute
13. Derrick McCree, Michigan Department of Health and Human Services
14. Hon. Julia Owdziej, Washtenaw County Probate Court
15. Megan Peña, Hope Network Behavioral Health Services
16. Brian Philson, Highfields, Inc.
17. Mark Reese, Tuscola County Prosecutor's Office
18. Tawana Rogers-Reece, InSight
19. Alex Rossman, Michigan League for Public Policy
20. Mary Scott, Parent
21. Kristin Stone, Macomb County Circuit Court

Data Working Group

1. Heather Blodgett, Ottawa County Circuit Court

2. Robb Burroughs, Public Policy Associates
3. Soleil Campbell, Michigan Department of Health and Human Services
4. Justice Beth Clement, Michigan Supreme Court
5. Dr. Dick Dolinski, The Legacy Center for Student Success
6. Nicole Faulds, Macomb County Circuit Court
7. Terri Gilbert, Wayne State University School of Social Work
8. Sam Haddad, Wayne County
9. Laura Hutzal, State Court Administrative Office
10. Rep. Sarah Lightner, Michigan House of Representatives, District 65
11. Dr. Jodi Petersen, Michigan State University
12. Amanda Pollard, Eaton County Circuit Court
13. Dave Roach, Michigan Department of Technology, Management and Budget
14. Mike Rosenberg, Michigan Department of Health and Human Services
15. Deborah Shaw, Livingston County Probate Court
16. Jason Smith, Michigan Center for Youth Justice
17. Hon. Tyler Thompson, Osceola County Probate Court
18. Amy Wesaw, Nottawaseppi Huron Band of the Potawatomi

Competency Working Group

1. Dr. James Henry, Western Michigan University Children's Trauma Assessment Center
2. Michelle Hill, Michigan Department of Health and Human Services
3. Lynn Johnson, Marquette County Circuit Court
4. Hon. Tina Yost Johnson, Calhoun County Circuit Court
5. Tanya Morrow, State Court Administrative Office
6. Dr. Debra Pinals, Michigan Department of Health and Human Services
7. Ameel Trabilisy, Trabilisy Law

Juvenile Defense Working Group

1. Terina Carte, Private Contracted Attorney, Genesee County
2. Justice Elizabeth Clement, Michigan Supreme Court
3. Rep. Sarah Lightner, Michigan House of Representatives, District 65
4. Joshua Pease, State Appellate Defender Office
5. Amanda Pollard, Eaton County Juvenile Court
6. Hon. Tom Slagle, Dickinson County Probate Court
7. Kristen Staley, Michigan Indigent Defense Commission
8. Kim Tandy, The Gault Center
9. Kim Thomas, Juvenile Justice Clinic, University of Michigan Law School

Waiver Working Group

1. Hon. Karen Braxton, Wayne County 3rd Circuit Court
2. Jeffrey Getting, Kalamazoo Prosecutor's Office
3. Joshua Pease, State Appellate Defender Office
4. Hon. Melissa Pope, Nottawaseppi Huron Band of the Potawatomi Tribal Court

Appendix C: Advisory Group Members

State Court Administrative Office Advisory Board

1. Hon. Dorene Allen, Midland County Probate Court, Probate Court Judge
2. David Bilson, Referees Association of Michigan (RAM), Oakland County Juvenile Court Referee/Deputy Court Administrator
3. Noah Bradow, SCAO - Field Services, Court Analyst Manager
4. Hon. Karen Braxton, Wayne County Circuit Court, Circuit Court Judge
5. Cameron Clark, Leelanau Family Court Administrator
6. Hon. Elizabeth Clement, Michigan Supreme Court Justice
7. Nicole Faulds, Macomb County Circuit Court, Circuit Court Administrator - Family Division
8. Hon. John Gadola, Genesee County Circuit Court, Circuit Court Judge
9. Elivin Gonzales, Berrien County Trial Court, Family Division Administrator
10. Linda Harrison, Referees Association of Michigan (RAM), Macomb County Chief Juvenile Referee
11. Rhonda Ihm, Genesee County Circuit Court, Deputy Circuit Court Administrator
12. Lynn Johnson, Marquette County Family Division, Director of Juvenile Services
13. Meghann Keit-Corrion, Michigan Association of Counties (MAC) Governmental Affairs Associate
14. Thom Lattig, Ottawa County Circuit Court, Juvenile Court Director
15. Tanya Morrow, SCAO - Field Services, Management Analyst
16. Deborah Nelson, Wayne County Circuit Court, Juvenile Mental Health Court Coordinator
17. Josh Pease, SBM Children's Law Section Rep Attorney
18. Amanda Pollard, SBM Family Law Section Recommendation and Eaton County Family Division Attorney Referee
19. Hon. Melissa Pope, Nottawseppi Huron Band of Potawatomi Indians, Tribal Court Chief Judge
20. Hon. Tom Slagle, Dickinson County Probate Court, Probate Court Judge - Chief Judge
21. Veronica Stillson, Michigan Probate and Juvenile Registers Association (MPJRA), Family Division & Probate Court Supervisor
22. Andy Thalhammer, Kent County Circuit Court, Circuit Court Administrator
23. Hon. Daryl Vizina, Cheboygan County Probate Court, Probate Court Judge - Chief Judge
24. Hon. Tina Yost Johnson, Calhoun County Circuit Court, Circuit Court Judge

Advocates Advisory Board

1. Tim Christensen, Training Director, Michigan Liberation
2. Robert Dorigo Jones, Vice President, Michigan's Children
3. Kris Keranen, Director of Education Advocacy, Disability Rights Michigan
4. Diana Rademacher, Community Engagement Director, Americans for Prosperity
5. Alex Rossman, External Affairs Director, Michigan League for Public Policy
6. Jane Shank, Executive Director, Association for Children's Mental Health
7. Jason Smith, Executive Director, Michigan Center for Youth Justice
8. Stephen Wallace, Regional Engagement and Mobilization Associate, Michigan's Children
9. Algeria Wilson, (Formerly) Director of Public Policy, National Association of Social Workers, Michigan

10. Kristin Wunderlin, Interim Behavioral Health Director, Ruth Ellis Center

Tribal Advisory Board

1. Hon. Kenneth Akini, Chief Judge, Grand Traverse Band of Ottawa and Chippewa Indians
2. Hon. Jocelyn Fabry, Chief Judge, Sault Ste. Marie Tribe of Chippewa Indians
3. Hon. William Jondreau Sr., Chief Judge, Keweenaw Bay Indian Community, Michigan
4. Hon. Carol Jackson, Magistrate, Saginaw Chippewa Indian Tribe
5. Matthew Lesky, Court Administrator, Little Traverse Bay Bands of Odawa Indians
6. Hon. Allie Greenleaf Maldonado, Chief Judge, Little Traverse Bay Bands of Odawa Indians
7. Spring Medacco, Court Administrator, Little River Band of Ottawa Indians
8. Hon. Leah Parish, Chief Judge, Bay Mills Indian Community
9. Hon. David Peterson, Associate Judge, Pokagon Band of Potawatomi Indians
10. Hon. Melissa Pope, Chief Judge, Nottawaseppi Huron Band of the Potawatomi
11. Hon. Angela Sherigan, Chief Judge, Little River Band of Ottawa Indians
12. Amy Wesaw, Senior Staff Attorney, Nottawaseppi Huron Band of the Potawatomi

Impacted Parents Advisory Board

1. Ebony Hemphill, Coordinator, Truth, Racial Healing and Transformation, Initiatives and Public Policy, The Kalamazoo Community Foundation
2. Mary Scott, Executive Director of Workforce Development, The Hope Network
3. Cole Williams, Co-founder and Co-executive Director, The Delta Project

¹ See the detailed Task Force presentations for more information on the data summarized in these key findings and the associated datasets used to arrive at these findings.

² Status offenses are acts that would not be crimes if they were committed by adults, such as truancy, curfew violations, and running away.

³ A non-person misdemeanor is an offense that does not involve another person, such as a property offense.

⁴ CSG Justice Center analysis of data from 32 counties provided by State Court Administrative Office (SCAO) and directly from counties.

⁵ Ibid.

⁶ CSG Justice Center analysis of statewide Judicial Data Warehouse (JDW) financial assessment data provided by SCAO.

⁷ Ibid.

⁸ CSG Justice Center analysis of data from nine counties provided by SCAO.

⁹ CSG Justice Center analysis of statewide data provided by the Michigan Department of Health and Human Services (MDHHS).

¹⁰ Ibid.

¹¹ Adjudication is the court process that determines whether youth committed the act for which they were charged.

¹² CSG Justice Center analysis of data from 32 counties provided by SCAO and directly from counties.

¹³ CSG Justice Center analysis of data from 8 counties provided by SCAO.

¹⁴ CSG Justice Center analysis of statewide data provided by MDHHS.

¹⁵ Vote tallies encompass the 22 Task Force members who were either present, sent proxies, or submitted their votes in advance. These 22 members were Lieutenant Governor Garlin Gilchrist; Judge Dorene Allen, Commissioner Alisha Bell, Judge Karen Braxton, Representative Brenda Carter, John Casteel, Justice Elizabeth Clement, Cami Fraser, Assistant Attorney General Stine Grand, Sheriff Steve Hinkley, Jeannine Gant, Thom Lattig,

Representative Sarah Lightner, Derrick McCree, Prosecutor Karen McDonald, Dr. Michael Rice, Chief Everette Robbins II, Senator Sylvia Santana, Jason Smith, Kimberly Thomas, Commissioner Marlene Webster, and Colbert Williams.

¹⁶ A recommendation is considered to have been approved by consensus when at least two-thirds of voting members voted in support of the recommendation.



MICHIGAN INDIGENT DEFENSE COMMISSION

August 23, 2022

To: MIDC Commissioners
From: Kristen Staley, Executive Director, MIDC

RE: Proposed FY23 Annual Budget & FY24 Budget Request

MIDC Internal Operating Procedures require the Executive Director to “prepare a proposed annual budget for Commission approval no later than the August meeting of the preceding fiscal year.” MIDC IOP, Sec. III(A)(3).

This memo two main parts: 1) an overview of the FY23 budget process and a proposed spending plan for the year and 2) a proposed request to the State Budget Office for the FY24 budget.

Section 1: FY 23 OVERVIEW

Budget planning for Fiscal Year 2023 began in the late summer/early fall of 2021. Like the previous year, unknowns surrounding COVID-19 impacted the State’s budget planning, but there was a focus on returning back to work and looking towards the future of the “new normal.” Simultaneously, the MIDC was also entering a phase of planning for the future, as former Executive Director Loren Khogali departed in July 2021 and Marla McCowan assumed the role of Interim Executive Director immediately thereafter. I was hired as the new MIDC Executive Director in late November and began officially in early January 2022.

On July 20, 2022, Governor Whitmer signed the FY23 budget, signaling the end of the state appropriations process for this year. The FY23 budget matches the initial Executive Budget Recommendation, including full funding for all grants to local funding units and internal operational requests. **In total, the State appropriated \$148,917,400 for the MIDC grants line item and \$2,763,000 for its operations line item.** A FY23 spending plan has not yet been created, however the items below represent the anticipated needs for the next year. MIDC staff will be working with the LARA team to finalize a plan in the coming weeks.

MIDC Operations Line Item

The final FY23 budget is an overall increase of 2% or \$68,600 from the current fiscal year. This appropriation reflects an increase compared to the current fiscal year due to increased costs in employee wages and benefits. No other major operational needs or changes were anticipated.

Despite the small increase for FY23, the MIDC is on track to underspend its current operational budget by about \$200,000. This amount remains due to significant staff transitions, including the positions of Executive Director, South Central Regional Manager, Senior Regional Manager (new for FY22), Grant Analyst (new for FY22), and Research Analyst. By Oct. 1, all FTEs are expected to be filled and underspending is not expected for FY23.

- Employee Wages and Benefits: This is the most significant portion of MIDC's budget. MIDC is allocated 16.0 FTEs. The FY23 budget assumes full-year funding of 15 FTEs. There is currently one staff vacancy (Research Analyst) and it is anticipated this position will be filled prior to October 1. State employees will receive a COLA 5% increase in salary. Several MIDC staff members are eligible to receive automatic step increases and/or longevity payments pursuant to the Michigan Civil Service Commission's schedule, estimates for these increases is included in these lines.
- Travel (employee and commissioner): Most travel costs are regional staff traveling statewide for meetings with local funding units and court watching. COVID-19 still restricts some staff travel; however, many meetings have transitioned back to in-person and courts no longer consistently provide virtual access. Similarly, temporary restrictions on the Open Meetings Act ended in early 2022, requiring Commissioners to participate in MIDC meetings in-person unless a valid exception exists. FY23 anticipates similar travel needs as the current year.
- Lease: MIDC staff relocated to the Ottawa building in September of 2020. The cost of the lease in the Ottawa Building is \$43,000.44 annually (\$3,583.37/month).
- Contracted Services: The MIDC has three current contracted vendors. The FY23 budget reflects continuance of these contracts, funded in combination with encumbered FY22 dollars and work project funds.
 - Experis – assists the grant team with financial auditing and review of grant expenditures. Current year expenses plus encumbered dollars through the end of FY23 total \$259,200. Due to the nature of the work with Experis, we were able to use the remaining balance of a 2018 work project fund to cover the bulk of this contract together with available FY22 funding.
 - Elephant, LLC – website developer, server host, and annual site maintenance. Current expenses reflect \$5,231.35 with an expectation of encumbering an additional \$16,320 of FY22 funding into the next year.
 - MKG Law Office, LLC – aids in assessing system needs for anticipated expansion of youth defense standards. This contract was just finalized in July and \$49,800 is expected to be encumbered from FY22 into the next year.

MIDC Grants Line Item

The FY23 budget allocates \$148.9 million for grants to local systems to fund compliance with minimum standards 1-5 and the Indigency Standard. This allocation is comprised of general fund dollars and an estimated \$300,000 from local indigent defense reimbursement. Despite the

implementation of Indigency Standard in FY23, it is the same amount appropriated for the current year. Implementation costs of this new standard are not estimated to be significant.

To date, 101 of 120 compliance plans and cost analyses have been fully approved by the Commission, totaling \$140,559,876.99 in state grant funding. As has been the case for past Fiscal Years, it is more than likely the State FY23 appropriation will be less than the Commission approved FY23 grant totals. To compensate for this difference, it is expected that unexpended funds reported by the local funding units will exceed the gap in appropriated and approved funding. While MIDC continues to reconcile FY22 reporting, the estimated unexpended balance for FY20 is upwards of \$50 million. Again, as in past years, the significant unexpended balance appears to be largely related to the impact of COVID on the courts and the criminal legal system as well as lingering start-up costs for new local programs.

Other Aspects of MIDC Budget

- Work Projects: The MIDC has two work projects that can only be used “to support local court system's compliance plans, as approved by the Michigan Indigent Defense Commission, for services provided to the indigent population in accordance with approved minimum standards for indigent defense.” Put plainly, these funds are created by unexpended grant dollars. Work projects must be renewed by the legislature each year but can only be renewed for up to 4 years. The MIDC maintains:
 - A 2020 work project with a balance of \$5,816,065 reflects the amount remaining after funding was distributed for FY20 compliance grants.
 - A 2021 work project with a balance of \$33,500,000 reflects the amount remaining after funding was distributed for FY21 compliance grants.

Due to expected unexpended FY22 grant dollars, the MIDC staff will work with LARA to create an additional 2022 work project. This total will be updated after the close of the Fiscal Year.

- Federal Grants: In FY22, the Commission was awarded a federal Byrne JAG grant through the Michigan State Police to fund a statewide intensive trial skills training program for attorneys. That grant, totaling approximately \$250,000 will end September 30. MIDC has been invited to apply for an FY23 Byrne JAG grant.

FY 23 Draft Spending Plan & FY22 YTD

Category	Draft FY23 Financial Plan	YTD through July 2022
Appropriation	\$2,763,000.00	\$2,699,400.00
Encumbered FY21 Funds		\$80,130.00
Wages	\$1,652,161.00	\$1,107,926.00
Benefits	\$965,597.00	\$703,825.00
Materials/Equipment, Contracts, all other operations	\$145,242.00	\$277,736.28
Total		\$2,089,487.28

Section 2: FY24 MIDC BUDGET REQUEST

Beginning in August of every year the MIDC must submit a request for budget needs of the fiscal year 2 years in advance.

Planning for Fiscal Year 2024 begins a new phase in the evolution of the MIDC. In FY24 the Commission will continue to meet its statutory responsibilities required by the MIDC Act, including enforcing its 8th Standard on attorney compensation. The Commission is also likely to begin expansion of its work to include standards for defending youth in the juvenile justice system.

The MIDC has the authority and duty to hire “an executive director and determine[e] the appropriate number of staff needed to accomplish the purpose of the MIDC consistent with annual appropriations.” MCL 780.989(1)(c). The Commission has also authorized and assigned the executive director with the duties of “[e]stablishing an organizational chart, preparing an annual budget, and hiring, disciplining, and firing staff.” MCL 780.989(1)(d)(i).

MIDC Staff are actively working directly with LARA and SBO on crafting a FY24 proposal. As such, details of staffing levels and operational expenses are not yet final. However, based on current needs and changes on the horizon the MIDC should, at a minimum, request to double its operations budget by FY24.

Meeting Current MIDC Act Requirements

Fully implementing the MIDC Act is a key to part of the public safety goals in Governor Whitmer’s FY20 – FY25 strategic plan. Specifically, one of the core tactics to ensure the Governor’s goals of providing and improving public safety is to “implement and fund approved programs for indigent defense services, assuring equal access to justice.”

On May 18, 2022 Director Hawks wrote to the MIDC, affirming the Executive Committee’s request to prioritize Standard 8 for FY24. The MIDC staff provided LARA with a fiscal analysis of Standard 8 and a range of estimated implementation costs. In the coming weeks, the MIDC and LARA will be working with the SBO to identify the correct dollar amount.

The MIDC has significant responsibilities as stewards of hundreds of millions of taxpayer dollars. Each year not only have the dollar amounts grown, the grant complexity has as well. Every time a new MIDC Standard is required of the 133 local systems, the annual compliance requirements, grant auditing and review, and overall need for technical assistance increases accordingly. Yet, the MIDC staffing levels are essentially the same as they were in FY19, despite a dramatic increase in responsibilities. To best protect the State’s hundreds of millions of dollars invested in indigent defense systems and ensure all the current statutory requirements in the MIDC Act are met, MIDC staffing levels need to be increased.

Additionally, the MIDC Act permits local systems to request the MIDC “develop and operate a system for determining the need and availability for an expert or investigator in individual cases.” MCL 780.991(5). As local systems have embraced and implemented MIDC’s Standard on expert and investigator use (Standard 3), the requests for such services have increased since FY19 by 49% statewide. The MIDC has not yet developed a system to support local systems in this manner due to staffing and operational shortages.

Anticipated MIDC Act Expansion Needs

On top of what is needed to ensure current mandates are met, efforts to amend the MIDC Act to include standards on the delivery of indigent defense services for youth in the juvenile justice system are well underway. This is a monumental change to both the MIDC as an agency and to the State of Michigan.

Executive Order 2021-6 established the Michigan Task Force on Juvenile Justice Reform, a 23-member bipartisan group chaired by Lt. Gov. Gilchrist and charged with analyzing the state's juvenile justice system and recommending "proven practices and strategies for reform grounded in data, research, and fundamental constitutional principles." The Task Force released recommendations on July 18, 2022 calling to "expand the MIDC to include development, oversight, and compliance with youth defense standards in local county defense systems." More specifically, the recommendation states that

"MIDC shall align current and/or develop new standards with specific considerations for the representation of youth in the juvenile justice system, including requirements for specialized training for juvenile defenders on trauma, youth development, and cultural considerations, scope of representation and role of counsel, and other key standards." (Task Force Report at 13).

Immediately following these recommendations, Rep. Sarah Lightner (also a member of the Task Force) introduced HB 6345 to memorialize these best practices.

When the MIDC Act is expanded, the Commission and its staff must be prepared to act. Fortunately, the MIDC has a successful history of creating and implementing standards statewide, and many lessons are already learned. However, the practice of defending adults in the criminal legal system is uniquely different than defending children in the juvenile legal system. New staff and with such specialized skill sets are required to ensure this work can be done.

To: Michigan Indigent Defense Commission

From: Marla McCowan, Deputy Director

Re: Proposed language to grant contracts for systems using a nonprofit public defender office

Date: August 17, 2022

At the December 2021 Commission meeting, the Office of Internal Auditing Services (OIAS) submitted a report and recommendations designed to assist the MIDC “with improving its guidance to local systems for managing financial oversight of subgrantees, including nonprofit public defender offices, in compliance with PA 0214 of 2018 and other applicable policies and procedures, laws, regulations, and guidelines.” The OIAS report included two recommendations where improvement is needed:

- MIDC should update its grant agreement template to include nonprofit public defender offices under its definition of subgrantees.
- MIDC should enhance existing guidance to specify the monitoring activities local systems are required to perform to ensure subgrantees comply with the terms and conditions of the grant agreement.

Proposed language recommended to resolve concerns identified by OIAS:

Where the Grantee uses a nonprofit entity to provide indigent defense services as contemplated in its compliance plan and cost analysis, this relationship is described as a subrecipient or subgrantee. The 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 the Grantee and its representatives.

A Grantee must require a subgrantee to comply with – and must monitor a subgrantee for compliance with – many or all of the conditions and restrictions that apply to the award to the recipient.

A Grantee must require a subgrantee to–

- *Provide appropriate progress and financial reports to the system;*

- *Be accountable to the system for how it uses the State funds provided under the subaward;*
- *Follow applicable State rules regarding financial management, internal controls, cost principles, and audit requirements;*
- *Collect and provide performance data for the system to include in its reports.*

This proposed language would be added to section 2.2 of the FY23 grant contracts between the MIDC and the following funding units:

1. Alpena County
2. City of Wyoming (also covers Grandville, Kentwood, Walker)
3. Houghton County (also covers Baraga/Keweenaw)
4. Iron County
5. Kalamazoo County
6. Kent County
7. Montmorency County
8. Saginaw County
9. Wayne County

To: Michigan Indigent Defense Commission

**From: Marla R. McCowan
Deputy Director/Director of Training**

**Re: Compliance Planning and Costs:
FY22 status; FY23 review and action**

Date: August 16, 2022

I. Funding Awards by Fiscal Year

	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	\$ 129,127,391.54	\$38,486,171.32	\$167,613,562.86
FY 2022 ²	\$138,348,406.27	\$38,146,920.09	\$176,495,353.43
FY 2023 ³	\$140,559,876.99	\$33,758,875.19	\$174,318,752.18 ⁴

The total system cost, local share, and state grant funds are listed for each system for each fiscal year and can be found on our grants page, <https://michiganidc.gov/grants/>.

We have distributed funding for all systems to implement the plans and costs in FY2022. The distributions were offset by any unexpended balances on deposit with the local system as of September 30, 2021. The

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

² These fiscal year totals include the mediation award to the City of Hazel Park.

³ These totals only reflect the 101 (of 120) compliance plans and costs approved as of the June 2022 Commission meeting.

⁴ Total system costs were revised consistent with MIDC Action at the June meeting to reflect updated SBM membership rate increases (overall increase by \$43,360.00)

MIDC annually collects information about the balance in a form completed by the local funding units due no later than October 31, 2021. See the MIDC Act, MCL 780.993(15).

II. FY22 Compliance Planning Update

A. Overview

As of the June 2022 meeting, all 120 systems have had their plans and cost analyses approved. Contracts have been distributed to all systems. As of this writing, all 120 contracts have been returned, signed, and finalized by LARA for distribution of full funding.

In accordance with the contract, most systems received their initial payment in early November 2021 and their second distribution in January 2022, a third disbursement in April 2022, and the final distribution was issued in July. The date of expected compliance with MIDC Standard 5, independence from the judiciary, is on or after May 1, 2022 for all of these systems.

1. Implementation of Plans and Compliance

The date of first payment received and the date of expected compliance is closely tracked for every system pursuant to MCL 780.993(11). The rubric used for system assessments has been updated to reflect the new requirement of independence from the judiciary. The rubric is included in the MIDC's grant manual and is available for systems to review.

a. System Reporting - Progress Towards Compliance

Staff received the third quarter of reporting from systems for FY22 (covering April 1, 2022 through June 30, 2022) at the end of July 2022. Funding units are required to enter the following reporting in EGrAMS:

- Attorney List
- Financial Status Report
- Quarterly Program Report

MIDC Staff offered online training sessions in mid-January and posted a recording of the training on the MIDC's YouTube page for anyone to review. Staff also conducted multiple "office hours" or drop-in online support sessions for technical assistance through the end of January.

As of this writing, over 90% of the reporting has been successfully submitted by funding units and approved by staff. All requests for corrections are processed through EGrAMS; local system project directors are able to review the status of reporting, payments, adjustments, and contract terms at any time.

b. Notice of Noncompliance Issued – Muskegon County

On April 11, 2022, notice advising that the Compliance Resolution Process was being initiated was sent to the funding unit via U.S. Mail and electronic mail for the following reasons:

- Failure to provide verification and documentation of compliance with Standard 2 – initial interviews of in-custody clients and initial contact with out-of-custody clients;
- Failure to provide verification and documentation of compliance with Standard 4 – walk-in arraignments taken into custody without the opportunity to consult with an attorney; and
- Failure to comply with the approved cost analysis.

Muskegon stakeholders have made significant efforts toward compliance, with the assistance of Regional Manager Susan Prentice-Sao and Grants Director Rebecca Mack. I have received several written reports from the system detailing these efforts. Staff has extended the time for full compliance and will continue to provide support to the funding unit during this process.

2. Revisions to Plans

- **Grosse Pointe Woods (action item)**

Total System Cost: \$55,920.00

Local Share: \$3,120.00

MIDC Funding: \$52,800.00

No anticipated change to overall costs for FY 2022

Staff recommends approval

Grosse Pointe Woods would like to amend its FY22 plan to incorporate the attorney billing changes already approved in its FY23 plan as soon as possible. Attorneys are currently paid \$300 for house counsel and all other attorney services are on a fee schedule. The city would like to amend its FY22 plan to match the FY23 changes as follows: retain the \$300 house counsel fee and for all other services, attorneys will bill an hourly rate of \$100.00. The only exception would be for attorneys that handle arraignments on non-scheduled days and weekends. For non-scheduled days, the attorney will be paid \$50.00, and for weekends they would be paid \$85, for being called in. This would be in addition to the hourly rate of \$100.00 for the time spent on the arraignments.

- **Jackson County (action item)**

FY22 Total System Cost: \$4,175,035.50

FY22 Local Share: \$561,783.17

FY22 MIDC Funding: \$3,613,252.33

No anticipated change to overall costs for FY 2022

FY23 Total System Cost: \$4,230,599.59

FY23 Local Share: \$571,775.36

FY23 MIDC Funding: \$3,658,824.23

No anticipated change to overall costs for FY 2023

Staff recommends approval

Jackson County would like to amend its FY22 and FY23 plans to incorporate circuit court Adult Treatment Court (ATC) specialty court defense services. Defense services are currently billed at \$1000 per month and paid to an attorney on the Public Defender roster list of attorneys. The monthly contract amount would remain in effect through FY22. FY23 billing would transition to an hourly basis at Standard 8 rates, estimated \$1000/month. Jackson County would like to amend its FY22 and FY23 plans to include ATC defense services, to be paid out of the Contracts for Attorneys line item.

- **Isabella County (action item)**

FY22 Total System Cost: \$1,587,916.66

FY22 Local Share: \$236,106.56

FY22 MIDC Funding: \$1,351,810.10

No anticipated change to overall costs for FY 2022

FY23 Total System Cost: \$1,600,332.76

FY23 Local Share: \$240,306.09

FY23 MIDC Funding: \$1,360,026.67

No anticipated change to overall costs for FY 2023

Staff recommends approval

The Isabella County Public Defender's Office will take over responsibilities related indigency screening from the Court starting in FY22. If a person is eligible the Defender Office will make assignments to a staff or roster attorney as described in the compliance plan. This will drastically cut down on the time it takes to appoint an attorney through the current system and would facilitate a faster start to the attorney-client relationship. It would reduce the tasks associated with reviewing the submitted forms from the judges. The only time a judge would review a CAA form is if a Defendant arrived at an arraignment in pro per and requested an attorney, the SCAO form would be submitted to the defender office, checking the box for screening. Additionally, an appellate process will be in place whereby if the office denies a request, they could submit a CAA form to the court to overrule the defender office's determination.

3. [Budget Adjustments](#) (information items)

The Grants Director processed and approved the following budget adjustment requests (line item transfer requests) pursuant to the process set forth in the MIDC's Grant Manual at p. 29 (February 2022):

- Alger County
- Allegan County
- Bay County
- Berrien County
- Branch County (2 requests)
- City of Birmingham
- Delta County
- Iron County
- Kent County
- Muskegon County
- Washtenaw County
- Wayne County (2 requests)
- Wexford County

III. FY23 Compliance Planning

A. Overview of process and submissions received

All funding units were required to submit a plan for compliance with all approved MIDC Standards no later than April 26, 2022, pursuant MCL §780.993. Funding units are using the MIDC's Grant Management System (EGrAMS) to do so. Training on submission was conducted by MIDC Staff at the end of March 2022, and a [recording](#) is linked on our website along with resources and materials for planning, including:

- An [application](#) for systems to address how they will comply with the MIDC's Standards. [This Word document is offered for

convenience in planning; the application must be submitted through the MIDC's grant management system (EGrAMS)].

- A [cost analysis template](#) identifying funding required to comply with the Standards [This Excel document is for convenience in planning; the cost analysis must be submitted through the MIDC's grant management system (EGrAMS)].
 - If a system contracts with a vendor operating as a public defender office, use [this template](#) for planning purposes [Excel document].
- [Answers to Frequently Asked Questions about the Indigency Screening Standard](#) to assist with compliance planning, along with decision trees for [indigency screening](#), [contribution](#), and [reimbursement](#).
- Systems are welcome to incorporate language from sample plans for compliance with the indigency screening standard, using a [public defender model \(non-attorney employee\)](#), [MAC system](#), or if the [court will continue screening](#).
- [Tips from Staff](#) [.pdf document] about FY23 planning.

B. Status of submissions to date

1. Approved Plans and Costs for FY23

As of the June 21, 2022 meeting, 101 of 120 systems have had their plans and cost analyses approved.

FY23 Total system cost approved (to date): \$174,318,752.18

Local share (increase of 3% from FY19): \$38,825,422.67

MIDC funding approved for compliance plans: \$140,559,876.99

2. Disapproved plans and/or cost analyses for FY22 (first submissions)

At the June 21, 2022 Commission Meeting, the MIDC rejected the plan and/or cost analysis from 19 systems for their first submission for FY23. Those systems were notified of the MIDC's action through a mailing dated June 27, 2022 and through EGrAMS. The deadline for resubmission is August 26, 2022.

C. Senior Staff Recommendations (action items)

Approve cost analysis (plan previously approved)

1. **D 22 Inkster**

FY22 approved total system cost: \$89,216.07

FY23 requested total system cost: \$65,000.00

Original submission: Part of district court regional managed assigned counsel system; clarification needed to support court officer time and potential increase needed for attorney hours for counsel at first appearance.

Resubmission: removed court officer position and evaluated attorney costs, no need for change at this time.

2. **D 30 Highland Park**

FY22 approved total system cost: \$134,606.03

FY23 requested total system cost: \$80,029.30

Original submission: Part of district court regional managed assigned counsel system; transitioned from event based pay to Standard 8 rates for attorneys while reducing time spent by attorneys; clarification needed to support part time court officer and clerk; IT request may be duplicative of prior year request.

Resubmission: removed IT costs (\$2,000) and reduced hours for both the court officer and clerk.

3. [Newaygo County](#)

FY22 approved total system cost: \$883,304.05

FY23 requested total system cost: \$1,036,284.73

Original submission: Part of an 8-county group that shares a MAC manager and roster with hourly pay for attorneys. Increase to contractual attorneys, including increasing rates from \$90 to \$100 for arraignments, (\$4,800); increase for felonies and capital cases due to increased caseload and COVID backlog (\$75,360); increase in MAC fees (\$3,750), increase in experts/investigators (\$5,000) and minor increase to supplies. Clarification is needed for ancillary spending/cost allocation included in personnel category.

Resubmission: Cost analysis revised to reflect change in administrative costs from personnel to indirect costs. An analysis of financial reporting and projected spending since the original submission verifies that this system will overspend for FY 22 in the amount of \$65,124.

4. [Oceana County](#)

FY22 approved total system cost: \$550,230.54

FY23 requested total system cost: \$612,188.74

Original submission: Part of an 8-county group that shares a MAC manager with an hourly paid panel of attorneys. Increase for corrections staff (\$10,538.43 + fringes); arraignment attorney rate increase from \$90 to \$100 (+\$43,503) including conflict defense and minor increase in MAC fees, increase in experts and investigators; addition of trial supplies and interpreters. Clarification is needed for ancillary spending/cost allocation included in personnel category.

Resubmission: moved administrative costs from personnel to indirect costs, resulting in small increase from original request (\$7,214.90).

Approve plan and approve cost analysis

5. Cheboygan County

FY22 approved total system cost: \$446,422.04

FY23 requested total system cost: \$460,992.09

Original submission: Managed assigned counsel system requires clarification in the following areas: how clients are screened, how attorneys are assigned, and a description of courthouse meeting space; multiple revisions are required for cost analysis including detailed reasoning for increased ancillary spending, hourly rates, missing line for conflict attorneys, and cost allocation, and possibly duplicative supplies, services, equipment must be removed.

Resubmission: responsibilities for screening and assignments have been detailed in the description for attorney contracts; meeting space has been changed and requires some supplies including furniture and telephones; Court clerk added to assist MAC with arraignments/assignments (\$5779.80, 5 hrs/wk); conflict attorney rates have been adjusted to \$115/hr; cost allocation removed; equipment for clerk and attorneys removed as well.

Recommended for approval by staff:		MIDC Funds Requested	Local Share	Total System Costs
City of Inkster	1	\$18,650.00	\$46,350.00	\$65,000.00
City of Highland Park	1	\$66,124.30	\$13,905.00	\$80,029.30
Newaygo County	1	\$833,296.01	\$202,988.72	\$1,036,284.73
Oceana County	1	\$518,507.15	\$93,681.59	\$612,188.74
Cheboygan County	1	\$315,345.97	\$145,646.12	\$460,992.09
Totals	5	\$1,751,923.43	\$502,571.43	\$2,254,494.86

D. FY23 Resubmissions/action items for next meeting:

1. Alger County
2. Charlevoix County
3. Chippewa County
4. City of Farmington
5. City of St Clair Shores
6. Crawford County
7. Delta County
8. Emmet County
9. Iron County
10. Muskegon County
11. Oakland County
12. Otsego County
13. Saginaw County
14. Wexford/Missaukee Counties