

# 2022

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# Annual **IMPACT REPORT**



MICHIGAN INDIGENT  
DEFENSE COMMISSION

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# OVERVIEW

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

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

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

The MIDC met seven times in 2022, including finalizing and approving a Strategic Plan outlining the Commission's vision for continuing to improve Michigan's public defense delivery services.

At every meeting, the Commission received updates about the state of the criminal legal system during the ongoing global health pandemic and evaluated support necessary to bring local systems into compliance with the MIDC's Standards. The Commission distributed over \$146 million statewide for local indigent defense services and MIDC's staff provided technical assistance to systems as plans for compliance were implemented.

# COMMISSIONERS

**Christine A. Green, Ann Arbor** *Represents the State Budget Office*  
**Chair of the Michigan Indigent Defense Commission**

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**Joshua Blanchard, Greenville** *Represents the Criminal Defense Attorneys of Michigan*

**Tracey Brame, Grand Rapids** *Represents the Chief Justice of the Michigan Supreme Court*

**Kimberly Buddin, Novi** *Represents those whose primary mission or purpose is to advocate for minority interests*

**Paul E. Bullock, Evart** *Represents the Senate Majority Leader*

**Nathaniel “Hakim” L. Crampton, Jackson** *Represents the general public*

**Andrew D. DeLeeuw, Manchester** *Represents the Michigan Association of Counties*

**Hon. James Fisher (Retired), Hastings** *Represents the Michigan Judges Association*

**David W. Jones, Detroit** *Represents the State Bar of Michigan*

**James R. Krizan, Allen Park** *Represents the Michigan Municipal League*

**Debra Kubitskey, South Lyon** *Represents the Senate Majority Leader*

**Hon. Paula B. Mathes, Muskegon** *Represents the Michigan District Judges Association*

**Margaret McAvoy, Owosso** *Represents the Michigan Association of Counties*

**Tom McMillin, Oakland Township** *Represents the Speaker of the House of Representatives*

**Cami M. Pendell** *Supreme Court Chief Justice Designee, ex officio member*

**John Shea, Ann Arbor** *Represents the Criminal Defense Attorneys of Michigan*

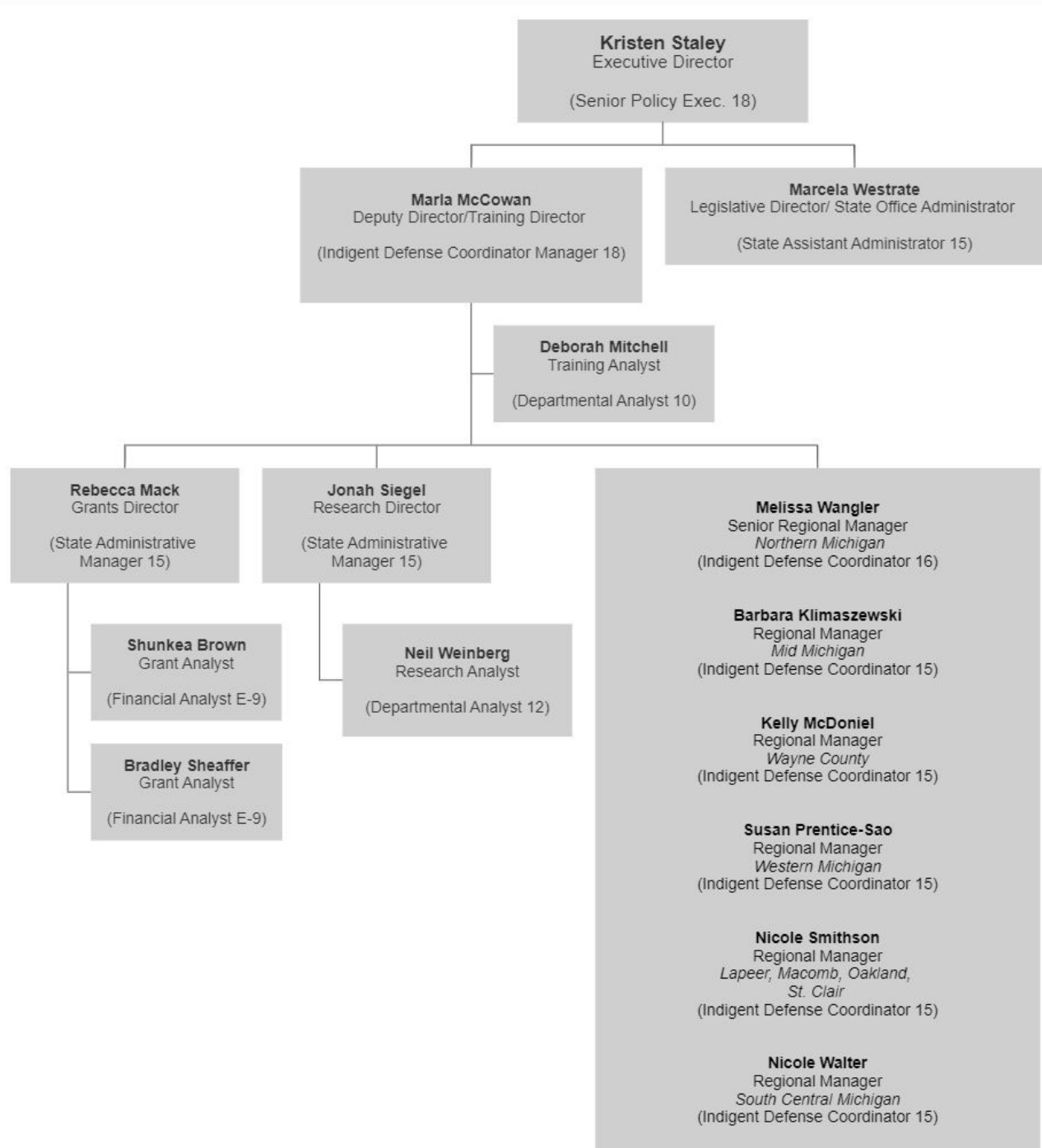
**William Swor, Grosse Pointe Woods** *Represents the Criminal Defense Attorneys of Michigan*

**Robert VerHeulen, Walker** *Represents the Speaker of the House of Representatives*

**Gary Walker, Marquette** *Represents the Prosecuting Attorneys Association of Michigan*

# EXECUTIVE DIRECTOR AND STAFF

In 2022, the MIDC was supported by newly-appointed Executive Director Kristen Staley and fourteen full time staff members. The organizational staff structure was prepared by the Executive Director pursuant to MCL §780.989(1)(d)(i).



# STRATEGIC PLAN

In early 2022, the Commission approved the publication of its strategic plan for indigent defense in Michigan. The mission, core values, and vision establish the framework for executing the Commission's priorities over the next several years.

The plan has a dedicated page on the MIDC's website, and can be found at <https://michiganidc.gov/strategic-plan/>.

The MIDC immediately began working on the long and short term goals to meet its identified priorities:

- **To ensure the effective use of public funds approved and distributed by the MIDC**, the Commission approved the publication of findings and recommendations from the Ad Hoc Committee on Unexpended Balances in April 2022. The Committee worked closely with the MIDC's Grants Director to evaluate its annual grant budgeting and spending processes.
- **To act on the MIDC's commitment to diversity, equity and inclusion**, Chair Green established an Ad Hoc Committee on DEI. Additionally, MIDC Staff members participated in the State of Michigan's DEI efforts within the Department of Licensing and Regulatory Affairs. Judge Kristina Robinson Garrett was also designated by the MIDC to participate in the Michigan Supreme Court's Commission on Diversity, Equity and Inclusion.

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## MISSION STATEMENT:

**The MIDC ensures that quality public defense services are accessible to all eligible adults charged with a criminal offense in Michigan.**



# Strategic Plan, continued...

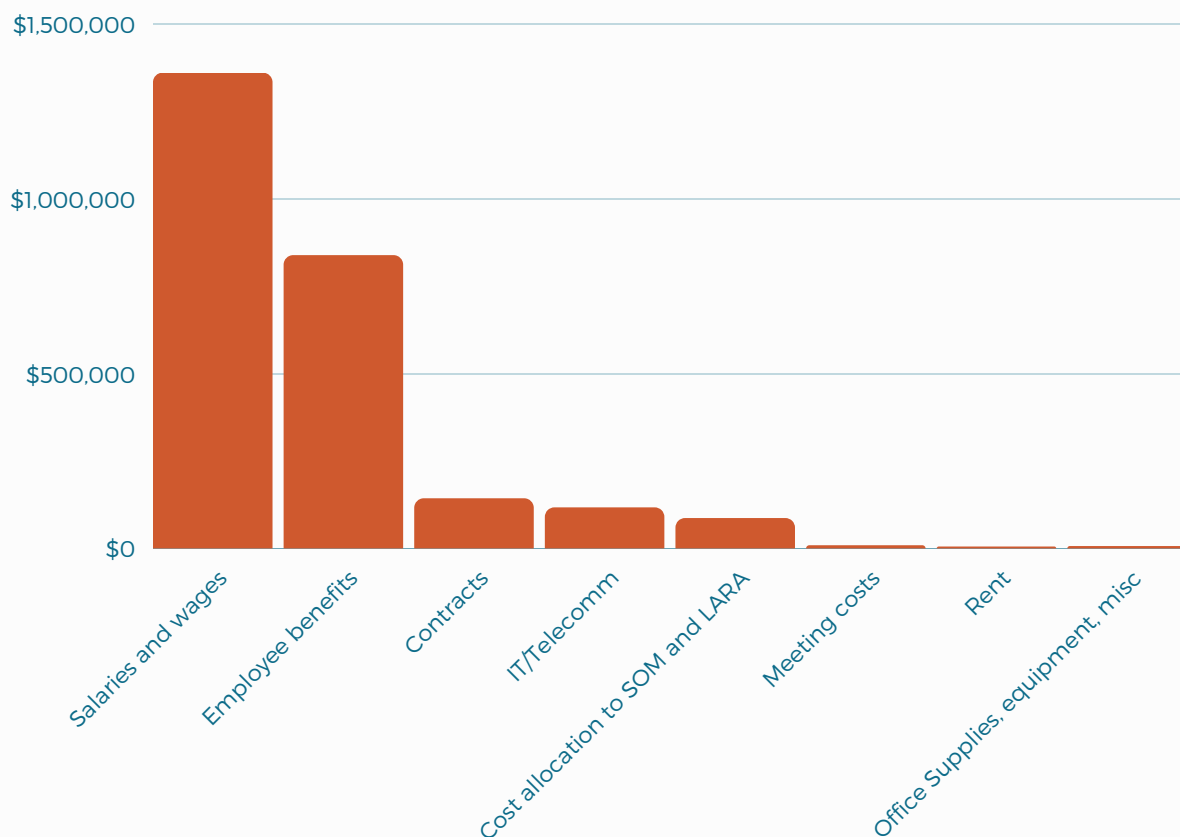
- **To support compliance with the MIDC's Standards**, the Commission revised its Grant Manual, the primary document containing the MIDC's policies and procedures. Staff offered regular training and technical support during the year to assist local system stakeholders with grant applications, reporting, and implementation. A committee was established to facilitate communication with the Commission for system needs.
- **To continue implementing all approved MIDC Standards**, planning for the Indigency Standard, which addresses eligibility screening, began in the spring of 2022 and the Standard ensuring adequate compensation for counsel was approved in the fall of 2022. Using the MIDC compliance rubric, staff also determined that 97.5% of systems were compliant with its fully approved Standards, including annual attorney training, timely and confidential client meetings, funding for experts and investigators, counsel at first appearance and other critical stages, and independence from the judiciary.
- **To encourage innovation and best practices in public defense systems**, the MIDC Regional Manager team highlighted systemic transformations supported by MIDC grants statewide at each meeting. This included an increased regionalization of services, holistic defense and other client-centered practices. The Regional highlights were compiled in a video available on the MIDC's YouTube channel and will continue in 2023.
- **To ensure operations and funding are in place to sustain the MIDC's mission over time**, a Data Committee was established to help demonstrate the Commission's impact. MIDC's Research Director was chosen to lead the Committee on data collection, performance metrics and related issues.
- **To provide leadership in the criminal legal system**, the MIDC hosted its 4th annual Defender Leadership Conference, assembling about 100 public defender chiefs, deputies, managed assigned counsel administrators, and other leaders to collaborate on progress and strategies to improve indigent defense delivery statewide.

# OPERATIONS

The Commission's budget has two components: operational funding for staff, and grant dollars to be distributed to all funding units in Michigan for compliance with the MIDC's Standards. The following breakdown describes spending for the MIDC's staff.

This information is also available on the MIDC's [policies and reports page](#) of our website pursuant to MCL 780.999.

## Fiscal Year 2022 (October 1, 2021 - September 30, 2022)



**TOTAL SPENDING**  
**\$2,611,360.92**

# MINIMUM STANDARDS FOR PUBLIC DEFENSE



All compliance plans and cost analyses for Michigan's 133 trial court funding units were approved by the MIDC this year. These plans address the MIDC's approved standards covering **training** for assigned counsel, **initial interviews** between attorneys and their clients within three business days from assignment, **expert and investigator** funding, **counsel at first appearance** and other critical stages of the proceedings, and **independence from the judiciary**.

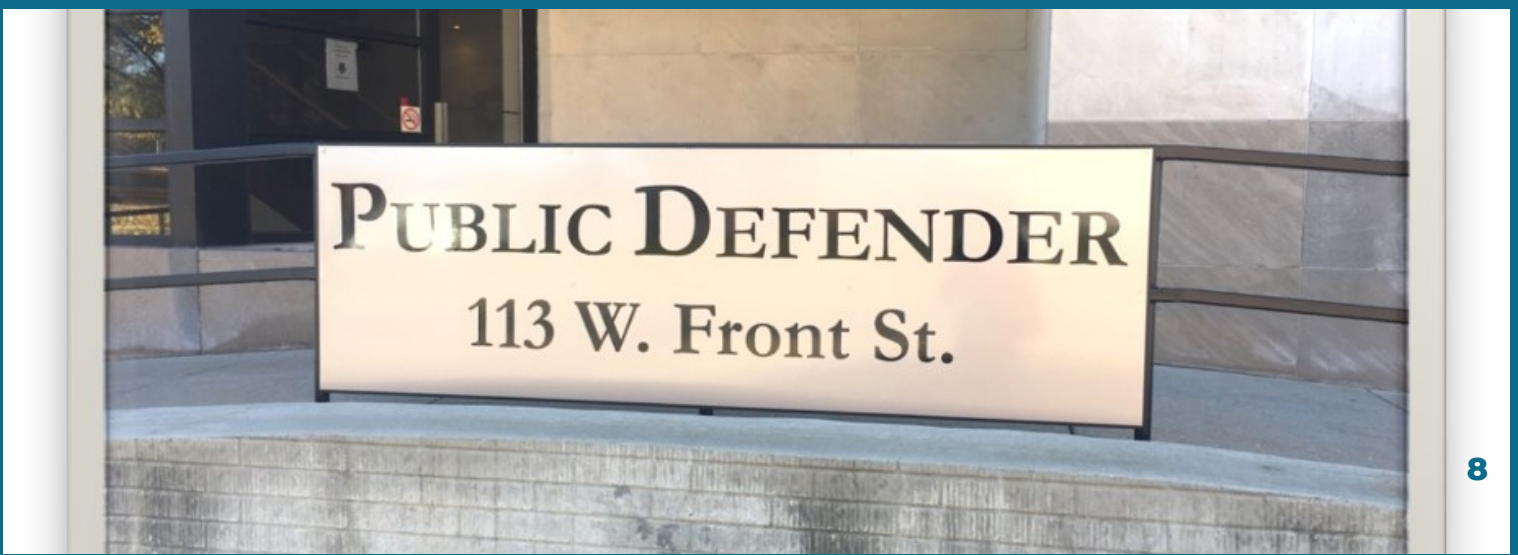
Under the MIDC Act, every system is given an opportunity each year to select its desired indigent defense delivery method to comply with the MIDC standards. Multiple models ranging from a defender office, an assigned counsel list, contract attorneys, or a mix of systems are considered compliant. This year, most systems included a Managed Assigned Counsel Administrator to ensure that their public defense model functioned independently from the judiciary.

Pursuant to the MIDC Act, a local system is required to comply with its approved plan within 180 days after receiving funding through the MIDC's grant process.

# GRANTS DISTRIBUTED

To comply with the standards, the State of Michigan distributed \$138,348,406.27 to local systems for indigent defense in Fiscal Year 2022. Funding units contributed an additional \$38,146,920.09 for public defense in their trial courts. At the end of each fiscal year, all systems are required to submit the balance of unspent funds distributed for indigent defense. This balance is used to offset the compliance grant distribution for the following grant year. As annual grant cycles progress, local budget predictability and spending rate increase, resulting in lower projected unexpended balances over time.

As in past years, the MIDC was statutorily permitted to carry forward unspent appropriations for a maximum of four fiscal years. Each balance is placed within a specifically defined work project and can only be used to fund activities that fall within that project's definition. These work projects served to fund compliance planning costs for funding units and projects related to best practices, data collection, and the development of the MIDC's grant management system.





**FY2022 TOTAL SYSTEM  
COSTS APPROVED  
FOR INDIGENT DEFENSE  
DELIVERY STATEWIDE  
\$176,495,326.36**

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Approved totals, by region:

**\$14,183,104.06**

Northern Michigan

**\$19,858,470.05**

Mid Michigan

**\$28,076,401.97**

Lapeer, Macomb,  
Oakland, St. Clair Counties

**\$33,806,669.29**

South Central Michigan

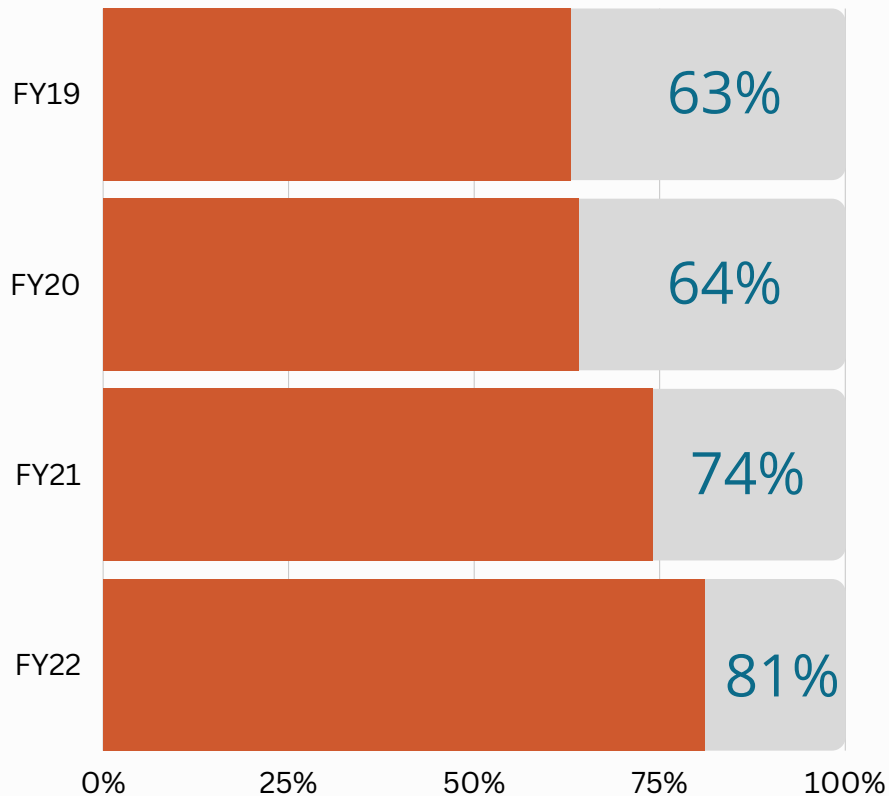
**\$37,107,895.63**

Western Michigan

**\$43,462,785.36**

Wayne County (all court funding units)

# LOCAL UTILIZATION OF GRANT FUNDS

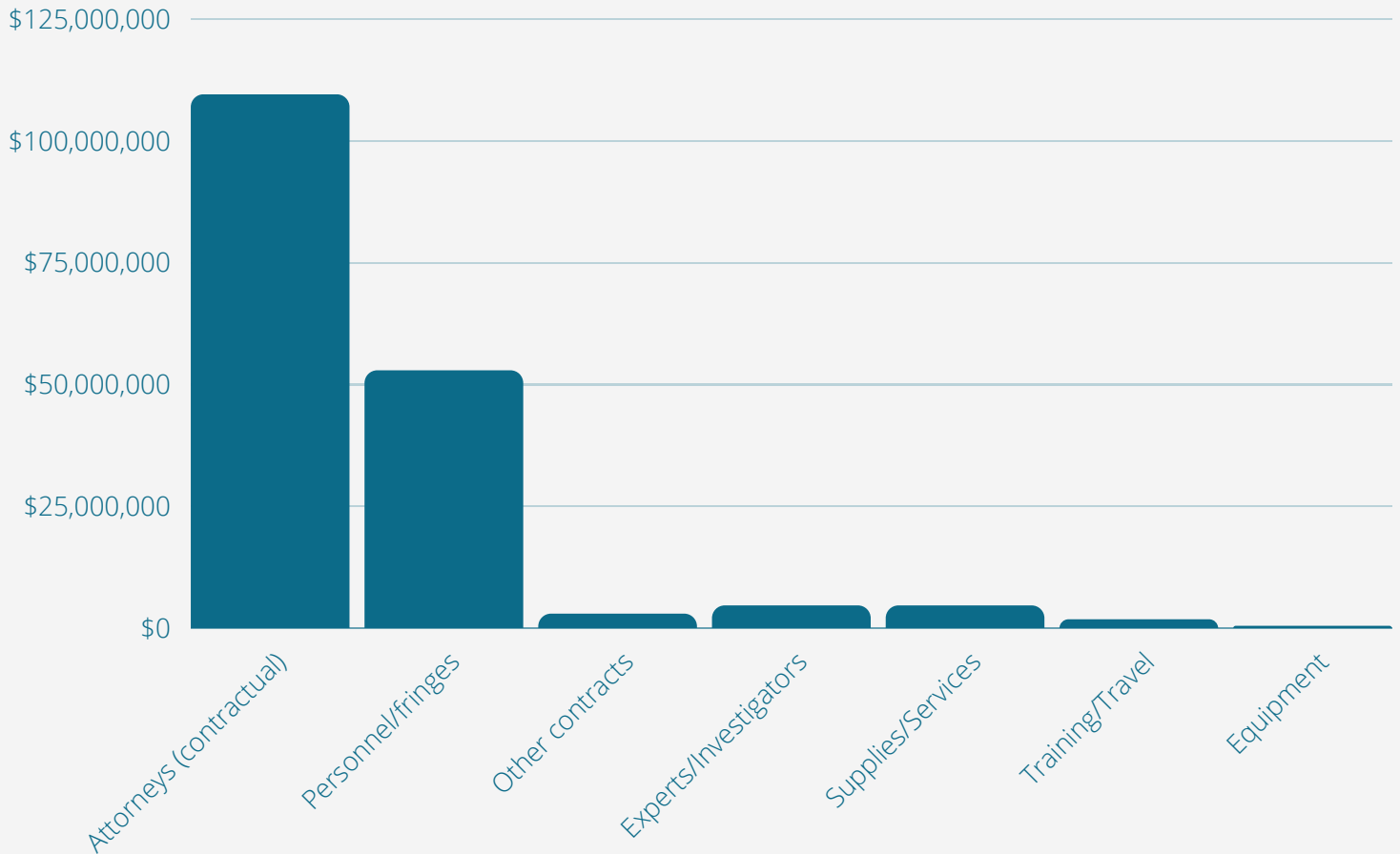


FY22 was the fourth year of MIDC grant distribution. From the prior year, state appropriations for grants increased as did the local rate of spending.

FY22 spending highlights:

- 81% local spend rate of MIDC grant funds
- 95% of funds used for direct services, i.e. attorney hours, defense office staff, etc.
- Over \$2.7 million spent on experts or investigators, an increase of nearly 60% more use than the inaugural grant year FY19.
- \$148.9 million in state appropriations for FY22, payments to local system of \$95.3 million, balance of \$53.6 million was added to the MIDC carryover funds

# SPENDING BY CATEGORY



The MIDC launched a new grant management system (EGrAMS) in 2022 for all trial court funding units to submit compliance plans and track all reporting requirements for spending costs associated with public defense.

Training and support for EGrAMS was offered by the entire staff, including live sessions that were recorded and made available online for later viewing, tutorials, one-on-one sessions, and virtual help-desk support.

The first year of implementation was a tremendous success. This new system is designed to promote transparency and efficiency in the compliance planning and reporting process.

# TRAINING FOR ASSIGNED COUNSEL

In order to remain eligible to accept assignments, attorneys must annually complete at least twelve hours of continuing legal education. Attorneys with fewer than two years of experience practicing criminal defense in Michigan are required to participate in one basic skills acquisition class (minimum of 16 hours).

The MIDC funds registration and travel expenses for all attorneys to meet this requirement. In addition to a variety of training opportunities from vendors statewide, the MIDC also provides skills training through a fourth year of grant funding from Byrne JAG.

This year, the MIDC's skills training program added many new courses with exceptional curriculum that expanded the courtroom skills of our public defenders and assigned counsel. Our new programs included Client Centered Representation and Ethics, Negotiation Skills, Bond Advocacy Workshop, Preliminary Examination Workshop, Intensive Opening Statement, Discovering the Story of Your Case, and Race in Voir Dire.

We also added Defender Leader programs, which included Creating Performance Agreements with Your Defenders, Having Difficult Conversations, Defender Wellness, Conducting Case Reviews, Non-Judicial Appeal Process for Reviewing Decisions, and Evaluating Requests for Experts and Investigators.

During FY22, we also added 14 new faculty members to our program, increasing the depth, knowledge and diversity of our faculty.

# TRACKING TRAINING

During the calendar year, **1,877 attorneys** were accepting criminal case assignments in Michigan. The MIDC was pleased to partner with CE Broker as part of a larger effort by LARA to track educational requirements for various license types across Michigan.

Attorneys are able to report their own attendance and the MIDC will continue to regularly verify compliance with the training requirements annually, with quarterly updates on progress.

More than 80% of attorneys met the minimum requirements for training in 2022. Attorneys who do not complete the annual training are unable to receive additional assignments until the requirements are satisfied.



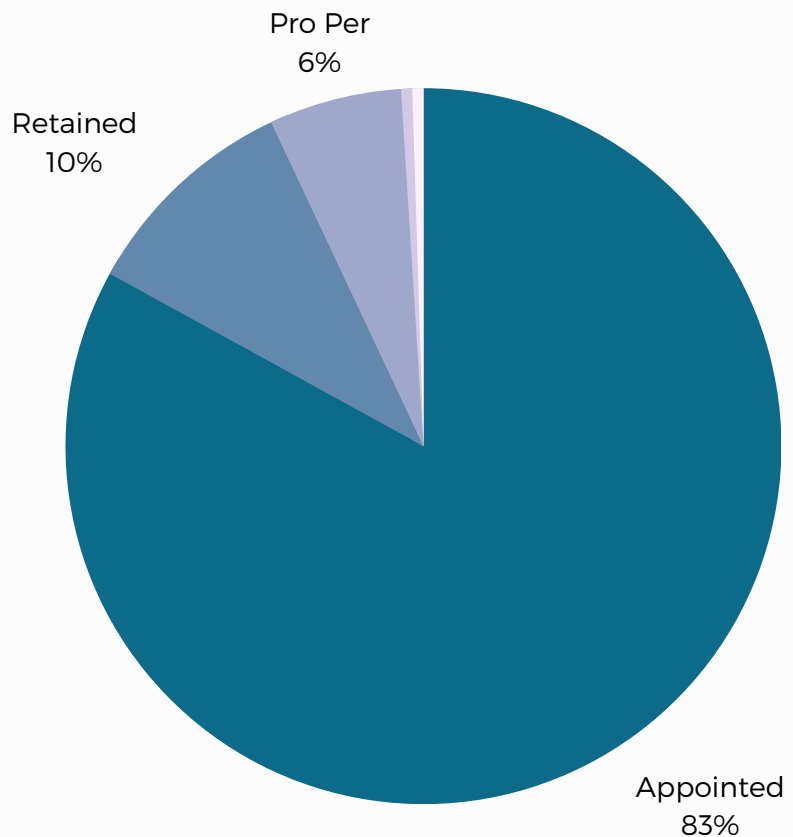
# COUNSEL AT ARRAIGNMENTS

Timely access to counsel has been declared a national priority by the US Department of Justice. The MIDC included in its first Standards the requirement of counsel at a defendant's first appearance before a magistrate or judge, as well as counsel at all other critical stages of the proceedings. Together with the Standard mandating timely initial interviews between attorneys and their clients, Michigan is leading the way in providing meaningful access to the constitutional right to counsel.

**Total  
arraignments:**  
**274,451**

**Arraignments  
with  
appointed  
counsel:**  
**229,041**

Prior to MIDC Standards, attorneys were present at approximately 1,000 total arraignments each year.





# INDEPENDENCE FROM THE JUDICIARY

Public defense must function independently from the judiciary. This is the first principle of the ABA's *10 Principles of a Public Defense Delivery System*. The MIDC's Standard addressing independence was fully implemented statewide in FY22 with an additional \$12 million in grant funding to distribute to systems to comply with this new standard.

Requiring assigned counsel and judges to operate independent of one another serves the court's role in protecting the constitutional right to counsel and enhances the ability of appointed counsel to effectively advocate for their clients.

# INDEPENDENCE, IMPLEMENTED

At its core, independent operation means that the court is no longer making assignments of counsel or approving requests for expert witness or investigative assistance for the defense, or compensating defense counsel for their work on assigned cases.

Until the Independence Standard was approved, every court in Michigan was performing these services. Implementation of the Standard required a complete change in every court statewide.

Most funding units opted to contract with a managed assigned counsel administrator, regionalize with other systems, or a combination of both to perform these duties. Prior to the MIDC, these models did not exist at the trial court level in Michigan. By the end of the fiscal year, over 83% of funding units used one of these models to ensure independent administration of public defense statewide.



# REGIONALIZATION AND BEST PRACTICES

Regionalization or coordination of services among funding units continues to be a highly efficient and cost effective means to provide services, including the following models:

- Regional Managed Assigned Counsel Administrators oversee multiple rosters of attorneys, make assignments, approve requests for experts and investigators, and process billing;
- Regional Public Defender Offices provide services across counties;
- Coordinated training for investigators and social workers regionally and statewide ensures growth and support of these emerging disciplines in the public defender community, particularly in rural parts of the State.

The MIDC remains committed to encouraging and funding these practices in the annual compliance plans submitted by local systems.

## Can the Michigan Model Pave the Way for Public Defense? w/Kristen Staley



# The MIDC's First Upper Peninsula Defender Conference Marquette, Michigan

October 7, 2022



The first of its kind, this full-day MIDC regional event offered training for assigned counsel on ethics, best-practices, and navigating common challenges for defenders; a networking lunch; and an opportunity to highlight local system innovation and discover potential for future collaboration among systems.

# SUPPORTING RURAL COMMUNITIES

Rural communities across both the Upper and Lower Peninsulas of Michigan are experiencing criminal defense attorney shortages. Data collected from across the country, the state of Michigan, and from stakeholders in rural communities all suggest that an overall attorney shortage is steadily increasing and will compound social problems in these communities if left unaddressed. The MIDC is uniquely positioned to address this growing statewide crisis and funded a report outlining recommendations for action. Hosted in Mecosta County, this project studied several systems in mid-Michigan and northern Michigan to identify solutions for ensuring success of the Commission's work through Standards implementation statewide.

The MIDC will continue to explore opportunities to fill in any gaps to ensure everyone in the State has meaningful access to the constitutional right to counsel.

Visit our website to read the report and learn more.





# CONCLUSION

Through its contributions, the Commission envisions:

- A sustainable, well-resourced public defense system that honors the dignity of all persons that it serves;
- Improved trust in the legal process through the provision of quality public defense services; and
- A just and equitable criminal legal system.

In support of this vision, the MIDC will:

- Secure adequate funding for compliance plans and operational expenses;
- Establish a framework for securing approval and implementation of the MIDC's pending standards covering caseloads, qualification and review of assigned counsel, and attorney compensation; and
- Work with stakeholders to expand the MIDC's role as amendments to the MIDC Act are made.