

Proposal Narrative – OJJDP FY23 Enhancing Youth Defense

The Michigan Indigent Defense Commission proposes the creation of a Youth Defender Trial Simulation Program.

DESCRIPTION OF ISSUE

Both US and Michigan law recognize effective assistance of counsel as a critical part of a youth's due process rights. As determined by the Supreme Court in *In re Gault*,

[t]here is no material difference . . . between adult and juvenile proceedings. The juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child 'requires the guiding hand of counsel at every step in the proceedings against him.'¹

Nonetheless, Michigan fails to meet this constitutional obligation as it lacks resources to properly train and qualify its attorneys to provide quality youth defense.

Specialized, Continual Legal Education is Critical for Quality Youth Defense.

Defending children in the juvenile legal system is a specialized practice requiring specialized skills. All attorneys have an ethical obligation to provide competent representation to their clients, requiring thorough preparation, proper skill, and training.² But, as stated in the National Juvenile Defense Standards, "children, most of all, need access to competent counsel when they come before the power of the state."³

The role of a youth defender demands a heightened base of knowledge, as their client's needs are intersectional. They must keep abreast of legal trends and jurisprudence in juvenile, criminal, family, civil, and education law. They must understand how to effectively counsel a young client and comprehend the complexities of childhood, including science behind adolescent development, immaturity, and how the effects of trauma, incarceration, and legal system on young people are different than adults. They must also refrain from imposing societal best-interest pressures of families, peers, and juvenile system stakeholders when defending their clients from prosecution, as "the condition of being a [child] does not justify a kangaroo court."⁴

¹ *In re Gault*, 387 U.S. 1, 36 (1967) (citing *Powell v. Alabama*, 287 U. S. 45, 69 (1932)). See also Mich. Comp. Laws § 712A.2(a)(requiring appointment of an attorney for a juvenile proceeding).

² MRPC R 1.1; ABA MRPC R 1.1 (both rules require competent representation which can be gained by annual legal training and education).

³ NAT'L JUVENILE DEFENDER CTR., NATIONAL JUVENILE DEFENSE STANDARDS, 5 (2012).

⁴ *Gault*, 387 at 28 (1967).

When attorneys defending children in juvenile court do not possess this level of skill, training, or preparedness, they are ineffective.⁵ Without representation by qualified attorneys, not only are the young client’s constitutional rights of due process and a fair trial violated, but they can also suffer dire consequences with lasting effects. Inadequate training or uniformed legal strategies can lead to unwarranted adjudications or increasingly punitive dispositions. Research shows that youth may be more likely to reoffend or refuse to participate in treatment if they perceive the court process to be unfair, including whether their attorney was unprepared or failed to incorporate their expressed interests.⁶ In turn, this can propel a litany of negative consequences for young clients, including school exclusions, diminished job opportunities, disqualification from future public benefits, housing, or loans, and increased likelihood of further trauma and physical harm from system involvement.⁷

Research Shows Michigan is Failing at its Obligation to Provide Quality Youth Defense, including Lacking Attorney Training and Oversight.

The Michigan Task Force on Juvenile Justice Reform, created by Michigan Executive Order 2021-6, was formed 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.”⁸ Its members consisted of multiple branches of government, political parties, locales, and the juvenile legal system continuum representing diverse perspectives, including youth and family members with lived system experience. In its final report, the Task Force found that the decentralized nature of Michigan’s juvenile defense systems and lack of statewide resources and oversight “has resulted in significant variation in local systems in terms of accessibility to trained, qualified defenders.”⁹

This outcome confirms a 2020 independent statewide assessment conducted by the Gault Center (formerly the National Juvenile Defender Center) that found Michigan’s young people are facing prosecution without protection of their constitutional rights. ¹⁰ Notably, this lack of consistent,

⁵ NAT’L JUVENILE DEFENDER CTR., NATIONAL JUVENILE DEFENSE STANDARDS, Standard 1.3, 1.3 cmt. (2012).

⁶See Kristin Henning, *Loyalty, Paternalism, and Rights: Client Counseling Theory and the Role of Child’s Counsel in Delinquency Cases*, 81 NOTRE DAME L. REV. 285 (2005); Barbara Fedders, *Losing Hold of the Guiding Hand: Ineffective Assistance of Counsel in Juvenile Delinquency Representation*, 14 LEWIS & CLARK L. REV. 797 (2010); Nat’l Research Council, *Reforming Juvenile Justice: A Developmental Approach* 6 (Richard Bonnie et al. eds., 2013).

⁷ See generally National Juvenile Defender Center, *A Juvenile Defender’s Guide to Conquering Collateral Consequences*, (2018). <http://defendyouthrights.org/wp-content/uploads/2018/10/Collateral-Consequences-Checklist-for-Juvenile-Defenders.pdf>

⁸ Michigan Task Force on Juvenile Justice Reform, Report and Recommendations, 2 (2022). <https://michigancommitteeonjuvenilejustice.com/wp-content/uploads/Michigan-Taskforce-on-Juvenile-Justice-Reform-Final-Report.pdf>

⁹ Michigan Task Force on Juvenile Justice Reform, Report and Recommendations, 7 (2022). <https://michigancommitteeonjuvenilejustice.com/wp-content/uploads/Michigan-Taskforce-on-Juvenile-Justice-Reform-Final-Report.pdf>

¹⁰ NAT. JUVENILE DEFENDER CTR., OVERDUE FOR JUSTICE: AN ASSESSMENT OF ACCESS TO AND QUALITY OF JUVENILE DEFENSE COUNSEL IN MICHIGAN, 7 (2020).

quality training and attorney performance oversight were among the key factors in this determination.

Michigan is one of only four states where the State Bar does not require its attorneys to engage in continuing legal education.¹¹ The only statewide requirement for annual training of Michigan attorneys is for those defending indigent adults in criminal cases.¹² A handful of local jurisdictions do require minimum training before an attorney can accept assigned delinquency cases; however, of these locations only three require the annual training to be related to juvenile law.¹³

In November 2022, the Michigan State Appellate Defender Office began offering virtual monthly trainings related to defending youth as part of their OJJDP-funded Juvenile Appellate Project.¹⁴ These trainings are a good start and are often well-attended, showing a desire among youth defenders to access additional legal education. However, these sessions do lack involvement or feedback directly from individuals with lived experience in the youth defense systems, leaving behind perhaps the most important resource for attorneys to improve their representation. Other than these monthly online sessions, there remains no state agency or organization providing any specific training on youth defense.

Similarly, the Gault Center report found little, if any, specialized qualifications needed by Michigan's juvenile systems to represent children facing delinquency charges. "There is no oversight as to the quality of representation," stated one interviewed member of the judiciary. "Once the attorneys are on the list, they can only get removed if they are chronically not showing up, showing up intoxicated, etc."¹⁵ Most of the jurisdictions reviewed by the Gault Center required only a Michigan law license; even fewer locales reviewed their attorneys for continual quality performance after an initial approval for case assignment.¹⁶

With the dearth of specialized youth defense training or quality oversight, it is unsurprising that the Gault Center identified subpar representation during its year-long Michigan assessment. From court watching and onsite visits, the researchers found local juvenile defense systems employing attorneys who rarely engaged in motion practice, seldom challenged probable cause during preliminary hearings, did not use experts or investigators, almost never proceeded to trial, and in many instances made no individualized advocacy at disposition.¹⁷

A recent Michigan Court of Appeals decision, *In re EE*, No. 358457 (April 13, 2023) provides another alarming example of inadequate representation. In this case, two children - a brother and sister - were facing delinquency charges for truancy. The trial court appointed counsel for the children, however the parent of the children refused to allow their attorney to communicate

¹¹ <https://www.americanbar.org/events-cle/mcle/>

¹² MIDC Standard 1.

¹³ Overdue for Justice at 55.

¹⁴ This initiative is currently funded by the FY21 OJJDP Enhancing Juvenile Indigent Defense grant.

¹⁵ Overdue for Justice at 56.

¹⁶ Overdue for Justice at 55-56.

¹⁷ See Overdue for Justice at 22-36.

with their client. On the grounds of an inability to communicate with the client, the attorney was allowed to withdraw. A second attorney was appointed; however, the same result ensued. Finally, the court appointed a third attorney and they also motioned to withdraw on the same grounds. The court refused to allow the third attorney to withdraw but ordered them to participate as standby counsel for the children.

“Here, the attorneys and the court inaccurately assumed that [the parent] could control his children’s access to counsel.”¹⁸ The Court of Appeals found that, “[t]he court excused [the attorney], ruling, ‘the children then will not retain or not have court appointed attorneys for them at their father’s insistence.’”¹⁹ The trial court proceeded with the hearing. The children represented themselves and were found to have committed truancy. Thankfully the case was remanded, but none of this should have occurred. Setting aside the uninformed rulings of the trial court, these young people were given not one, but three attorneys all of which failed to abide by a litany of core principles of defending children. This situation would have been prevented if the attorneys were properly educated or skilled in the roles of a youth defender, communicating with young people, adolescent development, or the unique challenges of attorney-child client relationship.

Michigan Juvenile Defense Systems are Failing to Protect against Disparate Treatment of Vulnerable Youth.

In its statewide assessment, the Gault Center specifically reviewed Michigan’s juvenile defense systems through a lens of equitable treatment of all youth. The report identified major systemic gaps where certain groups of young people, especially those with marginalized identities, were treated differently than others. As stated by one of Michigan’s youth defense attorneys:

[I]mplicit bias is operating throughout the whole system. Kids of color are more likely to be arrested for being a kid than an ‘upper-class’ kid. These kids are charged with everything. The police report will start with them noticing a suspicious subject—well, who is a suspicious subject? It is very troubling.²⁰

Michigan is one of the most egregious states in disproportionate juvenile system contact for youth in racial or ethnic minority populations. About 69% of Michigan’s youth population self-identifies as White. Yet data shows that Michigan’s youth of color are more likely to enter and be pushed deeper into juvenile legal system in all stages of the court process.²¹ Despite being only 17% of the population, Black youth are 2.7 times as likely to be arrested and 3.24 times more likely to be waived into adult court than their White counterparts.²² Similarly, Michigan’s Hispanic youth are more than twice as likely to be referred to court or securely detained.²³

¹⁸ *In re EE*, Michigan Court of Appeals, No. 358457 at 3 (April 13, 2023).

¹⁹ *In re EE* at 3.

²⁰ Overdue for Justice at 45.

²¹ Michigan Committee on Juvenile Justice, Michigan Racial and Ethnic Disparities Data, Fiscal Year 2020.

²² Michigan Committee on Juvenile Justice, Michigan Racial and Ethnic Disparities Data, Fiscal Year 2020.

²³ *Id.*

Data also shows that Michigan’s young people involved with juvenile court are among the most vulnerable and under-served in the state. About 60% of young women and 50% of young men in the Michigan juvenile legal system were previously involved with the state’s Children’s Protective Services.²⁴ These children have experienced serious trauma, including physical abuse, exposure to domestic violence, drug activity, multiple separations from caregivers, and numerous deaths, including the death of a parent and witnessing a murder. While Michigan data is missing on the amount of youth in the juvenile legal system that identify as LGBTQ-GNC, of that population, 17% more likely than their heterosexual counterparts to report being bullied at school and 10% more likely to report missing school because they felt unsafe.²⁵ Two-thirds of Michigan young people identifying as transgender reported some form of mistreatment when interacting with law enforcement including intentionally being referred to as the wrong gender and verbal, physical or sexual harassment.²⁶

Unfortunately, attorneys practicing in Michigan’s youth defense systems seem to overlook these systemic disparities in their representation. According to the Gault Center assessment, it was rare for attorneys to discuss inequities in their advocacy, and most did not express any issues about the treatment of youth of color, LGBTQ-GNC youth, youth with disabilities, or youth for whom English is a second language. As one interviewed attorney plainly stated, “[a]dvocacy has not bubbled up among defenders (to address equity issues).”²⁷

Systemic Remedies are Underway, but Limited Training and Legal Educational Opportunities Exist to Prepare Youth Defense Systems to Increase Quality Representation.

To remedy concerns of a lack in statewide oversight, resources and support of its juvenile defense systems, the Michigan Task Force of Juvenile Justice Reform unanimously recommended an expansion of the state’s Michigan Indigent Defense Commission (MIDC) to include “development, oversight, and compliance with youth defense standards in local county defense systems.” Among these new standards, the MIDC is recommended to “includ[e] 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.”²⁸

Created in 2013, the MIDC is charged with developing, overseeing and enforcing statewide standards for the delivery of public defense in adult criminal trial court systems. The MIDC is also responsible for identifying and encouraging best-practices in public defense, providing funding and resources to adult public defense delivery systems, and collecting and assessing data related

²⁴ Michigan Center for Youth Justice, *Locked Up Too Long: Justice-Impacted Young People Who Can’t Go Home* (2022).

²⁵ Michigan Center for Youth Justice, *Locked Up Too Long: Justice-Impacted Young People Who Can’t Go Home* (2022).

²⁶ Michigan Council on Crime and Delinquency, *Transforming Justice for Youth with Diverse SOGIE in Wayne County*, 6 (2019).

²⁷ *Overdue for Justice* at 45.

²⁸ Michigan Task Force, at 13.

to its standards. It currently has nine approved minimum standards for the delivery of adult public defense, all based on the American Bar Association's Ten Principles of a Quality Public Defense System: 1) annual attorney training; 2) timely and confidential client meetings; 3) use of experts and investigators; 4) counsel at arraignment and all critical stages; 5) independence from the judiciary; 6) attorney caseloads; 7) attorney qualifications and review; 8) attorney pay parity; and 9) indigency determinations.

Legislative efforts are currently underway to codify the Task Force's recommendations and expand the MIDC to include oversight and enforcement responsibilities of the state's juvenile defense systems.²⁹ Because of the political shift in Michigan State Legislative leadership and support from the Governor, bill passage is highly likely within the calendar year.³⁰ As such, the MIDC is expected to begin modifying its statewide standards, rules, and best practices to include youth indigent defense services as early as Fiscal Year 2024.

Mirroring existing MIDC standards for adult public defense, two of these newly crafted standards will require local juvenile defense systems to do the following:

1. Provide at least 12 hours of annual legal education specialized for youth defenders (Training Standard); and
2. Review youth defense counsel for quality, effective representation. (Qualification Standard).

Training Standard

Unfortunately, as indicated by the Gault Center report, Michigan does not have an established cadre of youth defense trainers or a statewide training program for youth defenders. While some educational opportunities do exist, like the virtual sessions led by State Appellate Defender Office, these are not detailed nor consistent enough to provide annual CLE to the hundreds of Michigan's youth defenders. Moreover, despite being the primary resource for representation of young clients, there are no attorney trainings providing direct input from families or youth.

Without the creation of Michigan-specific youth defense training and cultivation of qualified faculty, no local system will ever be able to meet the Training Standard and attorneys will continue to provide ineffective assistance.

Qualification Standard

Similar barriers exist for the Qualifications Standard. One critical component of this Standard is a tiered system to match experience, skill and ability levels with case assignments. In other words, rather than being able to accept any type of case, attorneys will be required to possess a certain type of courtroom experience or skills to be eligible to accept more serious cases.

²⁹ See Gongwer, Michigan Report, March 23, 2023 (accessed March 31, 2023 https://www.gongwer.com/news/?newsedition_id=6205901).

³⁰ See Katie Glueck, New York Times, *Michigan Democrats Rise, and Try to Turn a Battleground Blue*, Mar. 29, 2023 (accessed Mar. 31, 2023 <https://www.nytimes.com/2023/03/29/us/politics/michigan-democrats-whitmer.html>).

Many attorneys currently representing youth simply will not be eligible for some appointments once the Qualification Standard is in place due to their lack of experience and a lack of local options to obtain this experience. As in many states, most of Michigan's delinquency petitions resolve informally through diversion or dismissal and trials are rare. In a five-year period from 2017 to 2021, Michigan courts disposed of 108,338 delinquency cases. Of that total only about 33% of cases resulted in an admission of responsibility or plea and only 50 jury or 547 bench trials were conducted, 0.5% of all cases.³¹ While its fortunate these jurisdictions experience such low levels of formally petitioned youth, those children who are charged with delinquency petitions are at a greater risk of receiving poor representation from local attorneys. In fact, it is highly likely in many areas of the state that a child facing a serious charge may not have access to a local attorney who has ever represented a young client through a trial or other formal court process.

The relative rarity of serious cases also means there is little opportunity for attorneys to gain experience. This is true even for attorneys who have practiced for several years. There are some ripple effects that result. Attorneys are more reluctant to take a case to trial if they are not experienced in trial work, so cases that should be tried are resolved by plea bargains. In addition, on the rare occasion when such cases are tried, the attorney's lack of trial experience will often result in ineffective assistance of counsel.

Rather than focusing on meeting the Qualification Standard, some stakeholders have suggested diluting requirements of courtroom or professional experience to accommodate the relative inexperience of locally available attorneys. This is misplaced rationale, perpetuating an assumption that attorneys sign up to accept cases in the juvenile system to gain experience before moving on to criminal or retained cases. Youth defense is a specialty and should never be treated as a training ground for other areas of practice.

PROJECT DESIGN AND IMPLEMENTATION

The Michigan Indigent Defense Commission (MIDC) seeks to develop and pilot a unique trial simulation program where inexperienced and untrained Michigan attorneys can become qualified to adequately defend youth in the juvenile legal system through mock trial exercises. The goals of three-year program are 1) to ensure local juvenile defense systems are prepared to comply with MIDC Attorney Training and Qualification Standards by improving the quality of youth representation, and 2) to build partnerships and develop best-practices among Michigan's youth defense community.

This program will fill the need for a statewide, continual legal education opportunity that is specialized for Michigan's youth defense attorneys. Using the Gault Center's Youth Defender Advocacy Program (YDAP) modules and the National Juvenile Defense Standards as guides, this project will be carefully developed to train attorneys on the variety of procedural and substantive issues that arise during juvenile court proceedings. Because the youth in Michigan's juvenile legal system are vulnerable and mostly minority populations, trainings will also teach attorneys to

³¹ Michigan SCAO Caseload Data, 2017 - 2021

identify and navigate the unique aspects of litigating issues like adolescent development, youthfulness, competency and mental health, childhood trauma, and racial, ethnic, sexual orientation and gender identity biases.

Participation from people with lived experience in the youth and adult legal systems will be prominent throughout the program. These experts will provide input on the design and evaluations of trainings as well as act as attorney educators. Their time will be compensated. These elements will ensure the program has a two-way flow of information and sincere engagement with those directly impacted by the juvenile legal system. Youth, their families, and the attorneys representing them will share the vision and cultural development of Michigan's youth defense community.

The attorney trainees will also gain the necessary qualifications to accept the appropriate cases to match their skills in a controlled atmosphere under the guidance of seasoned youth defender peers. Importantly, this will be accomplished without the risk of harm to any clients. Unqualified attorneys will not be forced to gain the necessary experience in real-time, with the lives of young clients hanging in the balance. Feedback from trainers during the simulated exercises can be immediate; improvements can be measured throughout the training itself. Ideally, this program will also form the basis for creating an annual review process to measure improvements in skill level so local defense systems can meet the MIDC Attorney Training and Qualification Standards.

The three-year program will be led by a contracted Project Manager in coordination with key MIDC Staff and an Advisory Board. A Faculty Team will also be identified and trained to lead the mock trial and substantive training exercises.

A core component of the Advisory Board will be to oversee the direction of the project, provide feedback on developed curricula and training materials, aid in identifying faculty for a training team, and promote and help sustain the project goals and activities with outside stakeholders. The Board will include members with expertise in defending young people or significant experience with juvenile legal system. The makeup of the Advisory Board is intended to reflect the community most impacted by Michigan's juvenile legal system and served by youth defenders. As such, it consists of mostly of people of color and has multiple members with lived experience, including formerly system-involved people and parents of incarcerated children. To ensure meaningful commitment from the Board members, individuals will be compensated for their time and travel.³² The Board will meet consistently throughout the year, with one in-person meeting and the remainder virtual meetings.

Faculty trainers will be identified and trained by the Project Manager with help from MIDC staff and oversight and feedback from the Advisory Board. The faculty will be experienced youth defenders and juvenile system experts who will lead the trainings with the Project Manager. Faculty will include representation of people with lived experience in the juvenile legal system,

³² Compensation will not be provided if members are participating on the Advisory Board as part of other full-time employment to avoid any supplanting.

as they are the best experts at training attorneys on how to tell their story and communicate their needs. Faculty will also include YDAP certified trainers. All faculty members will be compensated for their time.

The trainings will be multi-day, mostly in-person, and open to attorneys practicing juvenile law statewide. Online trainings may be offered to supplement the learning experience. All trainings will be free to trainees. The trainings will be held in various locations around the state, especially focusing on rural jurisdictions in Northern, Mid and Western Michigan where juvenile court trials are least frequent. Multiple types of trial and court proceeding simulations will be created and tested to ensure the experience is meaningful. Once the trainings are designed and tested, a minimum of 25 trainings will be provided over the 36-month grant period. Evaluations of trainings will be assessed throughout the grant cycle and adjustments will be made as needed.

This program will thrive beyond the lifespan of the grant. The activities proposed are designed specifically to grow a community of well-trained and innovative youth defenders and to solidify youth defense as unique practice of law in Michigan. Attorneys will learn best practices from state and national leaders to improve their trial techniques, such as incorporating the voices of young clients and highlighting the effects of systemic biases and inequities on marginalized clients. Front-line defenders will be identified and fostered into leadership roles, inspiring continued quality representation from their attorney peers. The exercises and trainings will become the basis for a guidebook to be replicated and sustained by local juvenile defense systems at the conclusion of the program. The MIDC will also be able to sustain this program through annual state appropriations and funding to local systems. Upon conclusion of the grant, the MIDC will build upon and expand training opportunities across the state to further prepare attorneys to provide effective representation of young clients.

Chart of Program Goals, Objective, and Deliverables

A timeline identifying the timeframes in grant years and quarters of these activities is included as a separate attachment.

GOAL 1	Prepare local juvenile defense systems for compliance with MIDC Standards by improving the quality of youth representation
Objective 1	Determine local system needs to come into compliance with MIDC training and qualification standards.
Deliverables	<ol style="list-style-type: none"> 1. Convene Advisory Board and complete MIDC contracting process for Project Manager. 2. Conduct interviews with stakeholders in the juvenile legal systems across the state, including system-impacted people and families, attorneys, judges, youth service providers, and others to determine most needed attorney training issues.

	<p>System-impacted interviewees will be compensated for their time unless otherwise participating as full-time employment. Supplanting will be avoided.</p> <ol style="list-style-type: none"> 3. Identify the attorneys representing youth in each local juvenile defense system and survey for levels of trial or other court hearing experience. 4. Review local required qualifications of attorneys to accept case assignments.
Performance Measures	Project Manager hired and Advisory Board convened. Number of stakeholder interviews conducted. Number of issues to be addressed in simulated trial exercises and levels of attorney experience and qualifications are identified. Attorneys providing youth defense representation are identified.
Objective 2	Complete preparation and planning for simulated trial exercises including identifying and training faculty.
Deliverables	<ol style="list-style-type: none"> 1. Identify experienced juvenile system experts and youth defenders (attorney and non-attorneys) to act as training faculty who can provide demonstrations, hands-on training, and feedback. This will be an ongoing activity and have some overlap with activities under Goal 2. 2. Consult with seasoned youth defense trainers, especially YDAP certified trainers, and review structures of established training programs in other states, i.e. Maryland, Indiana, Wisconsin, etc. 3. Develop training curricula including trial problems with specific scenarios to address these issues and a format for addressing the issues identified. 4. Establish initial “train the trainer” sessions to prepare faculty for training events. Establish trainer roles (judge, witness, etc.). Identify and train trainers in appropriate feedback methods.
Performance Measures	Qualified faculty identified and trained; simulated trial problems and training issues identified and developed; trainings reviewed for feedback.
Objective 3	Design evaluation and test training program.

Deliverables	<ol style="list-style-type: none"> 1. Consult with established training programs to develop appropriate evaluation methods to permit trainees to assess the quality and usefulness of the simulated trial exercises, and to permit trainees to make suggestions for further training. 2. Host, evaluate and solicit feedback from a test training event with faculty and program partners, including MIDC staff and Advisory Board members.
Performance Measures	Evaluation forms will be developed and test event will be evaluated.
Objective 4	Establish and conduct first round of simulated trial exercises.
Deliverables	<ol style="list-style-type: none"> 1. Identify jurisdictions where there is the greatest need to enhance the experience level of appointed attorneys and schedule regional training sessions. 2. Identify and obtain appropriate training space for simulated trial opportunities. 3. Create promotional materials and advertise sessions to identify and contact potential trainees. 4. Plan full-day training program including specific time breakdown for sessions and meal breaks. 5. Conduct initial 1- 3 sessions 6. Assess evaluations from trainees
Performance Measures	Program sites and venues identified; recruitment of attorney trainees completed; planning and implementation of first sessions completed; evaluations conducted with suggestions made for program refinement.
Objective 5	Schedule and conduct additional training sessions.
Deliverables	<ol style="list-style-type: none"> 1. Consult with faculty, Advisory Board, regarding needed changes to program and add faculty if needed. 2. Identify and secure additional training locations for remaining training sessions. A minimum of 25 total sessions will be provided throughout the grant cycle with at least 3 months remaining of grant to evaluate program.
Performance Measures	Additional sessions conducted; evaluations collected and assessed to inform any necessary changes in between training sessions.

Objective 6	Develop program guidebook for use in future training programs. Explore and develop expansion of program.
Deliverables	<ol style="list-style-type: none"> 1. Combine materials used in simulation with evaluations and other reference materials to complete a program guidebook. This will be available to use as a basis for future trainings, and may include some materials that trainees could use in actual trial settings. 2. Survey trainers, trainees, and program participants and review evaluations to determine if advanced program should be developed to further enhance skills and qualifications.
Performance Measures	Program guidebook developed; if deemed effective and needed, development of curricula for future advanced simulation programs completed.

GOAL 2	Build partnerships and develop best-practices among Michigan's youth defense community
Objective 1	Foster a community of youth defense leaders.
Deliverables	<ol style="list-style-type: none"> 1. After initial development of trainings, host monthly faculty roundtable discussions and/or learning sessions. 2. Host quarterly Advisory Board meetings, with one meeting annually scheduled in person. 3. After initial identification of faculty, identify additional faculty and host additional "train the trainer" events to onboard new trainers and refresh current team members. 4. Participate in the Gault Center's annual Youth Defender Leadership Summit by sending three program members to the event in-person, including members of the Advisory Board, training faculty, and the Project Manager. Members of key MIDC staff may also participate in the Summit, but funding will be provided by the MIDC agency operational budget, not the grant.

	<p>5. Offer and award scholarship funding for front-line youth defenders to attend the Gault Center and Georgetown Law School’s Juvenile Justice Initiative’s YDAP Summer Academy.</p>
Performance Measures	<p>Monthly faculty meetings hosted; quarterly Advisory Board meetings hosted; additional faculty members identified and trained; members of program team attend Gault Center Summit; scholarships awarded for Summer Academy.</p>
Objective 2	<p>Ensure specialization of the practice of youth defense in Michigan</p>
Deliverables	<ol style="list-style-type: none"> 1. Reactivate Michigan youth defender listserv, using the already existing, but underused, Gault Center Michigan listserv. 2. Work with program stakeholders towards creating a Youth Defense Section of the State Bar of Michigan (SBM). 3. Conduct outreach to law schools and universities to encourage growth and interest in Michigan’s youth defense workforce.
Performance Measures	<p>Increased use and membership to the Michigan youth defender listserv; creation of Youth Defense Section of the SBM; number of outreach events conducted with students, law schools, and educators.</p>
Objective 3	<p>Incorporate youth defense trainings into annual MIDC compliance plans to sustain funding of program beyond grant funding cycle.</p>
Deliverables	<ol style="list-style-type: none"> 1. Encourage local juvenile defense systems to add youth defense trial simulation programming for their attorneys into their annual MIDC compliance plans. 2. Seek and obtain state appropriations for funding of MIDC compliance plans that include youth defense trial simulation training.
Performance Measures	<p>Number of local systems that request funding from MIDC for youth defense trial simulation program; amount of state dollars appropriated for local and/or regional use of program.</p>

CAPABILITIES AND COMPETENCIES

The MIDC is well-suited to lead a Michigan youth defense training program due to its connections to local systems, its history with similar initiatives, and its statewide reach.

Agency Structure

The proposed project will be housed within the Michigan Indigent Defense Commission (MIDC). Led by eighteen appointed commission members, the MIDC ensures quality public defense services are accessible to all eligible persons facing criminal charges. To accomplish this, the Commission is responsible for developing, implementing, and enforcing statewide standards and best practice policies for all of Michigan's local criminal defense systems. The MIDC also approves and administers annual grants to local defense systems to aid in their compliance with its standards and policies. To date, the MIDC has secured nearly \$150 million annually in state dollars for improvements to local defense systems.

Currently the MIDC standards and authorities are limited only to services provided to adults facing criminal charges. However, due to broadly supported pending legislation, the Commission's responsibilities will be expanding into the state's juvenile defense systems beginning in FY24.

Bedrock to the Commission's mission is the pursuit of equal protection for all persons facing prosecution and the elimination of systemic bias from the criminal legal system. The MIDC recognizes training and education of defense attorneys and other defense team members as critical to a quality public defense system. Implementation of a Youth Defender Trial Simulation Project would further many of the Commission's publicly stated goals and priorities, including:

- 1) Acting on the agency's commitment to diversity, equity and inclusion by collaborating with systems to provide defenders training on implicit bias, cultural competency, and litigating racial disparity;
- 2) Supplementing annual state resources with diverse sources of funding to help sustain the MIDC's mission;
- 3) Encouraging innovation and best practices in public defense systems, and
- 4) Providing leadership in the legal system through engagement with system-impacted people and encouraging collaboration and creativity in the community of defender leaders and facilitate access to resources for leaders.³³

The MIDC is structured as an independent state agency housed within Michigan's executive branch under its Department of Licensing and Regulatory Authority (LARA). In FY24, the MIDC will be responsible for operating and managing an annual budget of nearly \$220 million dollars, comprising about two-thirds of the LARA annual appropriation. Much of this funding is composed of annual grants awarded to local public defense systems to aid them as they come into compliance the MIDC's statewide standards and implement best-practices. These funds are

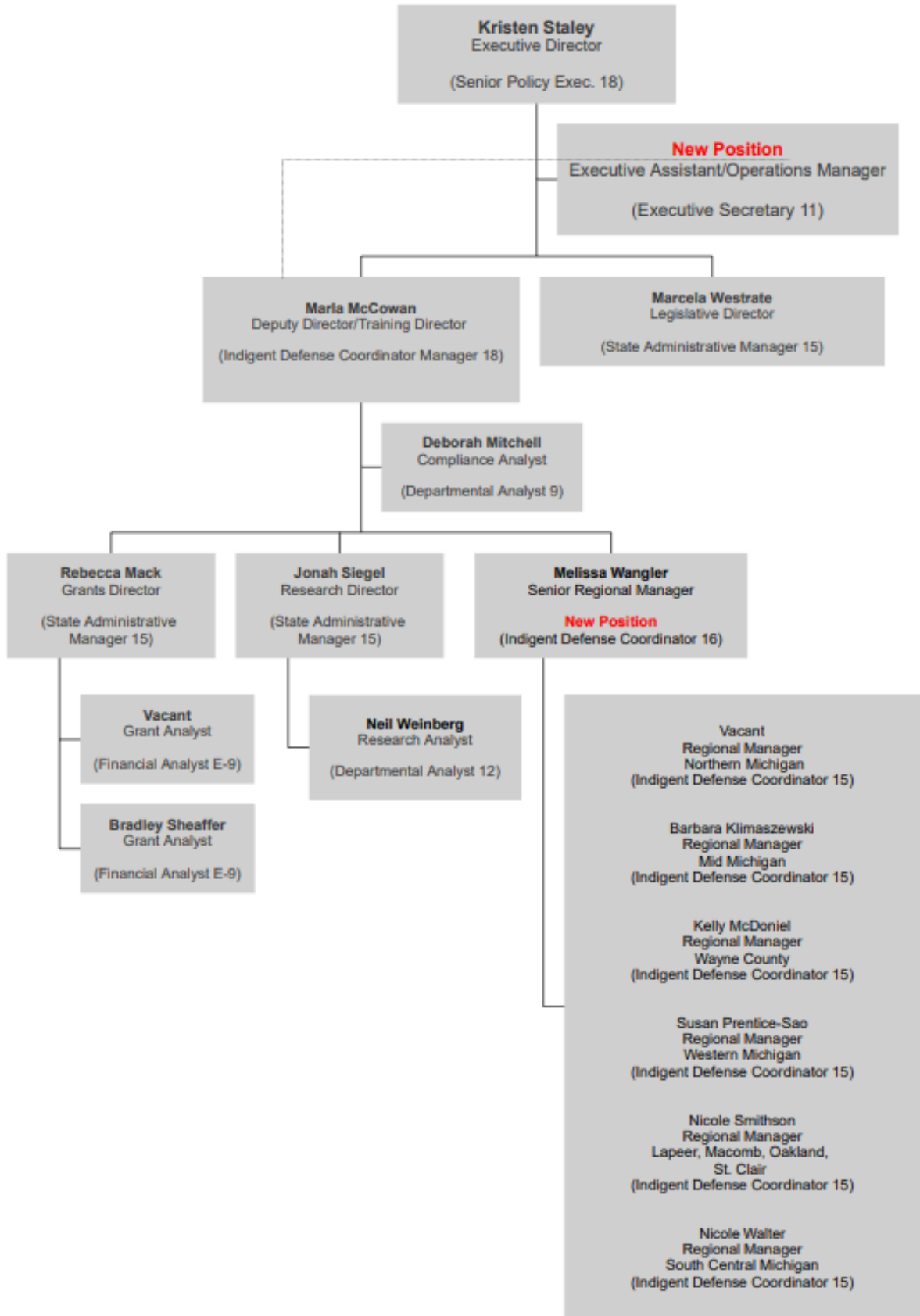
³³ See MIDC's Strategic Plan, <https://michiganidc.gov/strategic-plan>

appropriated to the MIDC through the annual Michigan budgeting process and the grants are administered by MIDC staff.

LARA's Finance and Administrative Services Bureau provides core centralized support services such as budgeting, accounting, information technology and procurement to the MIDC, to ensure compliance with all state rules and regulations. The MIDC annually engages in the State of Michigan's auditing processes through the Michigan Office of the Auditor General.

MIDC Staff

Below is an organizational chart of the MIDC staff as is expected in FY24. The total operations budget funded by the State of Michigan for FY24 is expected to be \$3,167,400.



Kristen Staley

Executive Director

(Senior Policy Exec. 18)

New Position

Executive Assistant/Operations Manager

(Executive Secretary 11)

Maria McCowan

Deputy Director/Training Director

(Indigent Defense Coordinator Manager 18)

Marcela Westrate

Legislative Director

(State Administrative Manager 15)

Deborah Mitchell

Compliance Analyst

(Departmental Analyst 9)

Rebecca Mack

Grants Director

(State Administrative
Manager 15)

Jonah Siegel

Research Director

(State Administrative
Manager 15)

Melissa Wangler

Senior Regional Manager

New Position
(Indigent Defense Coordinator 16)

Vacant
Grant Analyst

(Financial Analyst E-9)

Bradley Sheaffer
Grant Analyst

(Financial Analyst E-9)

Neil Weinberg
Research Analyst

(Departmental Analyst 12)

Vacant
Regional Manager
Northern Michigan
(Indigent Defense Coordinator 15)

Barbara Klimaszewski
Regional Manager
Mid Michigan
(Indigent Defense Coordinator 15)

Kelly McDoniel
Regional Manager
Wayne County
(Indigent Defense Coordinator 15)

Susan Prentice-Sao
Regional Manager
Western Michigan
(Indigent Defense Coordinator 15)

Nicole Smithson
Regional Manager
Lapeer, Macomb, Oakland,
St. Clair
(Indigent Defense Coordinator 15)

Nicole Walter
Regional Manager
South Central Michigan
(Indigent Defense Coordinator 15)

The MIDC staff serves a critical role to ensure the state's 133 local public defense systems adhere to statewide standards and develop best practices in public defense. The 17-person team led by the Executive Director and Deputy Director is comprised of a Regional Field Team, Research Team, and a Grants Team. Staff provide technical assistance to local public defense systems, grant administration, compliance auditing, data collection and analysis, as well as state public defense policy development.

The majority of MIDC staff are experienced public defenders or juvenile or criminal legal system advocates. This is especially true for the MIDC Regional Field Team. Supervised by the Deputy Director, it consists of six Regional Managers and one Compliance Analyst. All Regional Managers are experienced and respected public defense attorneys, licensed to practice law in Michigan and are required to stay updated on best-practices in public defense. On average, each Regional Manager is responsible for the oversight of about 20 local defense systems and is the direct liaison of the Commission to local stakeholders. They are capable communicators and leaders in their field, and are often expected to present during regional, statewide, or national trainings, aid in developing Commission policy, and staff Commission working groups.

The MIDC staff manages similar statewide training and defense leadership projects, including other OJP funded grants.

In its decade of operation, the MIDC has formed many projects to instill best-practices in public defense and build community among defense leaders across Michigan. Since 2018, the inaugural year of grant awards to local systems for implementation of MIDC Standards, the office has hosted an annual Michigan Public Defender Leader Conference. This convening is the first of its kind in Michigan. Prior to the MIDC there were only eight counties with Public Defender Offices and no statewide organization or agency focused solely on training trial-level public defenders. Now, with the MIDC's funding and support there, are 33 Public Defender Offices covering 40 counties and the rest are overseen by independent Managed Assigned Counsel Administrators. Each year in its Annual Conference the MIDC makes sure to include voices from those who were former clients of public defenders or have experienced the criminal system first-hand, as it is a critical part of the agency's priorities. This year's MIDC Defender Leader Conference will host keynote speaker Kenneth Nixon, president and member of the National Organization of Exonerees.

In between the annual conference, the MIDC staff hosts monthly discussion groups for defender leaders and operates a well-used defender leader listerv. Outside of Chief Public Defenders and Defense Administrators, MIDC staff have also helped form other non-attorney defender leader communities such as the Social Worker Defender Group and the West Michigan Investigator Group.

As a state agency, the MIDC often seeks grant funding to supplement its annual state appropriations, boosting its investments in improving local public defense systems. One prime example is the MIDC's *Adult Defender Trial Simulation Program*. For the past five years, the MIDC

has operated its Adult Defender Trial Simulation Program, funded by the Office of Justice Programs, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant Program (Byrne JAG). In a similar fashion to this current youth defense proposal, the program provides trial simulation exercises and immersive trainings to inexperienced attorneys to improve their quality of representation and aid local defense systems as they come into compliance with MIDC Attorney Training and Qualification Standards.

The main training program takes place over three days, where attorneys practice through mock-trial exercises all procedural elements of a trial: voir dire, opening statements, cross examination, direct examination, and closing arguments. Over the past three years single-subject courses have been developed to offer intensive training on the core topics of defending adults in the criminal system, including subjects aimed at teaching how to litigate systemic inequities and focus on client-centered values. Below is the list of topics:

- Bond Advocacy Workshop
- Client Centered Representation and Ethics
- Closing Arguments (intensive) Program
- Cross Examination (intensive) Program
- Direct Examination Simulation Program
- Direct Examination of Expert Witnesses
- Discovering the Story of Your Case
- Evidentiary Foundations Skills Workshop
- Mental Health Matters: Litigating Mental Health & Intellectual Disabilities
- Negotiation Skills
- Online advocacy
- Opening Statement (intensive program)
- Preliminary Examination Advocacy Workshop
- Representing Transgender Clients
- Sentencing Advocacy Workshop
- Using Experts to Hold Prosecutors to their Burden
- Voir Dire (intensive) – Raising Race
- Voir Dire Simulation Program

A recent expansion of the program includes courses specifically designed for defender leaders, on topic such as: Conducting Case Reviews; Creating Performance Agreements with Your Defenders; Defender Wellness; Evaluating Requests for Experts and Investigators; Having Difficult Conversations; and Non-Judicial Appeal Process for Reviewing Decisions.

The program is highly successful, and courses are often fully booked with waiting lists available. The MIDC contracts with a Project Manager to coordinate and lead the program and has cultivated over 20 faculty members for the trainings.

Key MIDC Staff

Key staff on this project will include the MIDC's Executive Director, Deputy Director/Training Director, and Regional Manager for Western Michigan. With the grant funding, the MIDC will also seek to contract with an experienced youth defender trainer Project Manager to coordinate and lead the initiative. The MIDC Deputy Director/Training Director will be responsible for the grant reporting and meeting program timelines. The MIDC Executive Director will be responsible for

financial management of grant. The MIDC Western Michigan Regional Manager will liaise with the Project Manager as a subject matter expert and operate as the primary point of contact for the MIDC staff.

The key MIDC staff will participate in Advisory Board meetings, aid in the development of the project's goals, objectives, and deliverables, and act as training faculty as needed throughout the program. To sustain the project, resources will be sought through the state appropriations process to eventually merge the Project Manager's role and tasks into the MIDC annual operations budget.

MIDC Executive Director Kristen Staley is a longtime public defense and criminal and juvenile legal system reform advocate. She has worked with the MIDC team for six years, serving in various roles that provided technical assistance to public defense stakeholders, developed best-practice techniques for implementing the MIDC standards in the field, and aided in policy and training development on behalf of the Commission. She was selected as the MIDC Executive Director in November 2021, where she's responsible for a team of 15 staff members and a state budget of nearly \$150 million for operations and annual grants to local public defense systems. The MIDC staff is expected to increase to 17 people in FY24. She serves as a member of LARA's Leadership Council, the Michigan Supreme Court's Justice for All Commission and Child Protective Legal Representation Task Force, and as a member of the OJJDP-funded Michigan Youth Appellate Defense advisory board. She was also a member of the recently defunct Michigan Task Force on Juvenile Justice Reform's Youth Defense Committee.

Prior to her work with the MIDC, she was the Deputy Director for the non-profit organization Michigan Council on Crime and Delinquency (now the Michigan Center for Youth Justice). In this role she was the project manager on many public and private grant-funded initiatives and oversaw organizational and budget development for the agency. Additionally, she led statewide policy campaigns to raise the age of juvenile court jurisdiction; to realign the state's youth competency standard to include adolescent development principles; and to reduce reliance on pre- and post-disposition incarceration through increased use of evidence-based diversion and community-based services. She has served on the national advisory boards of the Gault Center and the National Juvenile Justice Network. Kristen is a certified Youth Defender Advocacy Program (YDAP) trainer and was Co-Director of the Gault Center's Midwest Regional Center, where she organized multi-state trainings and educational opportunities for youth defenders. She currently sits as a Michigan member of the Gault Center's newly formed Great Lakes Regional Center. She has also worked on behalf of The Gault Center as an Assessment Team Member in multiple statewide assessments examining of the quality of youth defense.

Marla McCowan is the MIDC Deputy Director and Training Director. Marla works with trial court funding units to facilitate implementation of new continuing legal education requirements for over 2,000 attorneys accepting assigned criminal cases in Michigan. Marla also supervises a team of statewide Regional Managers who provide ongoing assistance to court systems to comply with the MIDC's standards for indigent defense. Prior to joining the MIDC, Marla served as a public defender at the appellate level for over sixteen years at the Michigan State Appellate Defender

Office, nearly four of which included overseeing training for indigent defense practitioners around Michigan in her capacity as the Manager of SADO's Criminal Defense Resource Center and Training Director at SADO. While at SADO, Marla represented clients in cases in a variety of stages of appeals and post-conviction proceedings in Michigan and federal courts, including an argument in the United States Supreme Court. Marla graduated from Eastern Michigan University (B.S. '94) and University of Detroit Mercy School of Law (J.D. '97). She is a Fellow of the Michigan State Bar Foundation, a member of the Criminal Defense Attorneys of Michigan, a member of the National Association for Public Defense, and a member of the Michigan Women Lawyers Association. Marla was nominated to be part of Michigan Lawyers Weekly's 2018 class of Women in the Law and was voted "Woman of the Year" by her peers that year and was a recent recipient of the State Bar of Michigan's "Champion of Justice" award (Sept 2019).

Susan Prentice-Sao is the MIDC Western Michigan Regional Manager, where she oversees the implementation and enforcement of MIDC standards in fourteen counties and large cities such as Grand Rapids and Kalamazoo. On a daily basis, she provides technical assistance and encourages best practice techniques to public defenders and their system stakeholders. She is a seasoned trainer of public defenders, leads efforts to coordinate the MIDC's Public Defender Leadership Conference, and is a faculty member of the MIDC's Adult Trial Simulation Program. Before coming to the MIDC, she was a front-line defender in Kalamazoo County for fifteen years, representing hundreds of youth and adult clients in the juvenile and criminal legal systems.

Project Manager

The Project Manager will be a contractor identified by MIDC staff after a State of Michigan Request for Proposal process is conducted. The Project Manager will be a seasoned trainer of attorneys and highly knowledgeable about issues related to representing youth in the juvenile court systems. The Manager will be a youth defense attorney or possess equivalent experience or education. They will be well-known in their field and possess significant project management skills and experience.

Advisory Board

The individuals and organizations listed below have committed support of the project and to partnering on the Advisory Board. Letters of support and/or resumes are included with the grant materials.

- *Kimberly A. Thomas*, Clinical Professor of Law and Co-Director of the Juvenile Justice Clinic, University of Michigan Law School
- *Delphia Simpson*, Chief Public Defender of Washtenaw County, Michigan. The Washtenaw County Public Defense Office is one of only three public defense offices in Michigan representing youth in the juvenile legal system.
- *Dorphine Payne*, Youth Defense Attorney, Chair of Kalamazoo Defenders Board of Directors, and person with lived experience in the juvenile and criminal legal systems.

- *Bernadette Brown*, Founder and President of B. Brown Consulting, LLC, Faculty Trainer to the National PREA Resource Center, and youth defense attorney and policy advocate.
- *Amanda Butler*, Principle of BOOST Consulting, Regional Advisory Board Member of the Gault Center, and Project Manager of OJJDP-funded statewide youth defender training programs nationwide.
- *Hakim Crampton*, Senior Movement and Capacity Building Specialist, JustLeadershipUSA, MIDC Commissioner, and person with lived experience in the juvenile and criminal legal systems.
- *Michigan Center for Youth Justice*, statewide nonprofit advocacy organization specializing in juvenile justice system policy reform and storytelling of system-impacted individuals.
- *Michigan State Appellate Defender Office*, formed in 1969, SADO is a national and statewide leader in public defense and is Michigan's only statewide office providing public defense services at the appellate level. SADO currently operates the OJJDP-funded Youth Appellate Defense Project, aimed at increasing the overall quality of youth appellate practice in Michigan.

PLAN FOR COLLECTING THE DATA REQUIRED FOR THIS SOLICITATION'S PERFORMANCE MEASURES

The MIDC's Training and Evaluation Committee, together with the MIDC's Deputy Director/Training Director, developed an evaluation process for all programs meeting the MIDC's continuing education requirements. Information about the program's impact will be collected through evaluations prepared by the Project Manager and submitted by trainees. The evaluations will seek to ensure that the objectives of the training were met and provide feedback about the quality of the training provided. All evaluations will be reviewed by faculty, the Advisory Board, and the Project Manager on an ongoing basis. Based on evaluation reports, the Project Manager will lead any changes as needed throughout the program with oversight from the Advisory Board.

The forms and processes for collection will be modified as necessary to ensure training specific to youth defense is evaluated in a consistent manner and the information collected is used to make improvements to the curriculum. The MIDC's *Guidelines for Trainers and Training Providers* will be updated at the conclusion of the grant program. Time will also be reserved prior to the end of the grant-cycle to review data collection and reporting on performance measures. The expected performance measurements for each deliverable and objective to meet the program goals are listed in the Project Design and Implementation portion of this proposal.