

MICHIGAN INDIGENT
DEFENSE COMMISSION

Senate Committee on Judiciary and Public Safety

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Dr. Jonah Siegel, Research Director

February 27, 2020

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“Our justice system works best with both a strong prosecution and a strong defense. This ensures that the rights of all citizens are protected ***Our belief in justice for all should not become justice for only those who can afford to pay.***”

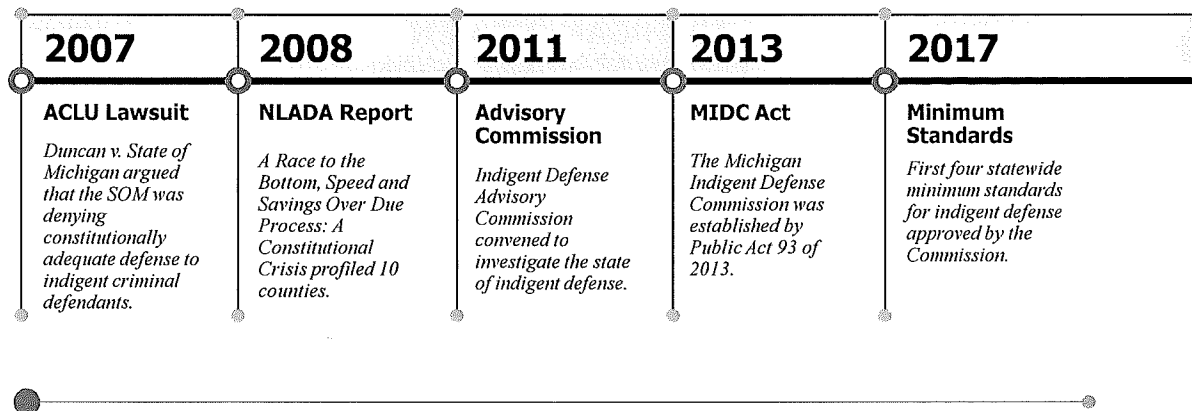
--Nancy J. Diehl President, State Bar of Michigan, 2004-05

A Race to the Bottom, Speed and Savings Over Due Process: A Constitutional Crisis (NLADA, June 2008)

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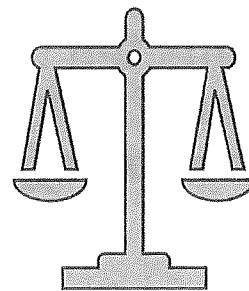
MICHIGAN INDIGENT DEFENSE COMMISSION



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Michigan Indigent Defense Commission Act

- Creates minimum standards for indigent defense
- Supports local systems to design plans for compliance with minimum standards
- Commission approves plans and funding for compliance to be awarded to local systems
- Monitors and evaluates compliance with standards and spending
- Collects and compiles data to track impact



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MIDC's First Statewide Standards



Training and
education of counsel



Initial client meeting
as soon as
practicable



Investigators and
experts



Counsel at first
appearance and
other critical stages

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Why are
minimum
standards
for indigent
defense
important?



People less likely to be unnecessarily
detained pretrial.



Fewer people wrongfully convicted.



People more likely to get fair sentences.

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Cost Savings



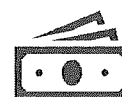
Incarceration
Costs



Individual and
Community
Impacts



System
Efficiencies



Post-
conviction
savings



MIDC Standards 1 - 4

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Implementation Successes



Training and Education of Counsel: Funding will allow over 2,000 attorneys to receive relevant training.



Initial Client Meetings: Nearly 90% of systems now report having confidential meeting space for attorneys to meet with clients.

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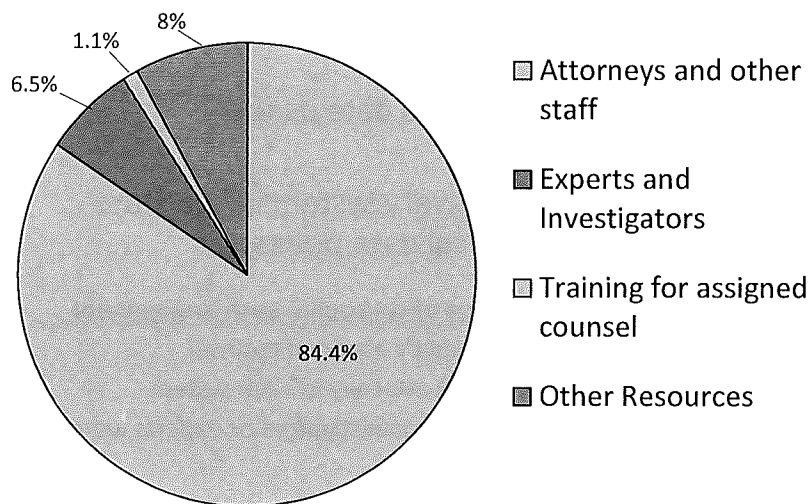
Investigators and experts: A process for attorneys to request experts and investigators has been established in almost every trial court system.



Counsel at first appearance: MIDC standards are guaranteeing an attorney at first appearance to approximately 300,000 indigent clients each year.

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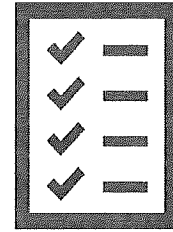
Breakdown of FY19 Funding



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Financial Monitoring of Expenditures

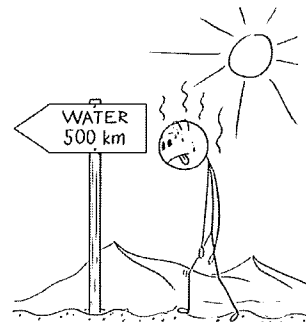
- Systems are required to submit quarterly financial and program reports
- Collaboration underway with State of Michigan's Office of Internal Audit Services (OIAS) to review internal processes and conduct audits of local systems
- Implementation of a grant management system to facilitate efficient and accurate reporting



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Data, Data, Data

- Michigan: Prior to 2019, a data desert.
- Between 2019-2020, every system in the state started to collect critical data points:
 - # of arraignments and type of counsel at each arraignment
 - % of new filings represented by assigned counsel
 - # of cases assigned to every attorney in each system
 - # of appointed cases in which investigators or experts were utilized



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Next Data Steps

- Urban Institute evaluation
- Right to Counsel cost-benefit analysis
- Quarterly data collection from local systems
- Court watching and compliance assessment checklists
- Creation of statewide case management system that allows for collection and sophisticated analyses of case-level data

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The MIDC's work is at the center of other important criminal justice reform efforts.

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Traffic violations

Recommendation 1: Reduce the number of driver's license suspensions.

State law allows a driver's license to be suspended for a wide range of non-criminal behaviors. In 2018, nearly 358,000 licenses were suspended in Michigan for failure to appear and failure to pay fines and fees. The Task Force heard testimony across the state about the domino effect a suspended license can have, and from the law enforcement professionals who see these individuals using up limited public safety resources. To reduce jail admissions for driving with a suspended license and remove barriers to workforce reentry, licenses should only be suspended or revoked when the holder has been convicted of an offense directly related to driving safety.

From the Michigan Joint Task Force on Jail and Pretrial Incarceration
Report and Recommendations
January 10, 2020

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MIDC Funding Supports the 44th District Court in Royal Oak



- Innovative driving while license suspended (DWLS) program created
- Funding for counsel at first appearance facilitates a smart justice solution to DWLS cases led by Judge Meinecke. MIDC funding supports attorneys to handle the weekly docket.
- As of January 30, 2020, 837 participants have obtained/restored their licenses.

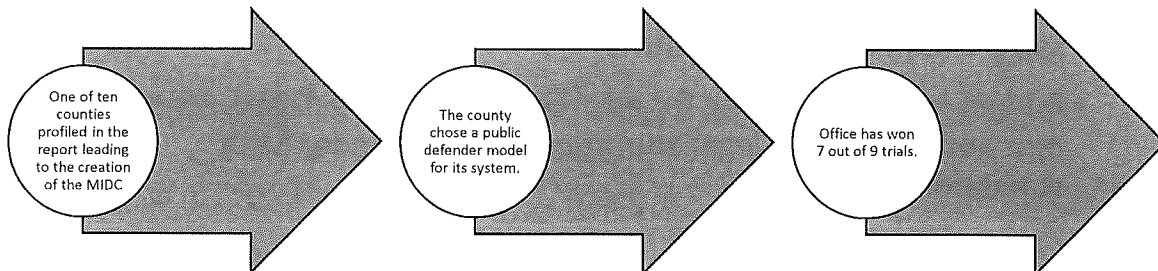
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Increase in Public Defender Offices

- 8 counties with established Public Defender Offices received additional funding and resources for compliance
- 15 new PD offices opened in 2019, serving 20 additional counties
- 4 new offices are planning to open in 2020

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Improvements in Shiawassee County



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With experience as a public defender as well as in the prosecutor's office, Carey said she was not surprised by the caseload, but having two counties' worth of cases is a twist. She said the extra work, however, is making a difference as it allows those going through the court system to understand what is happening throughout the entire process.

"I think it has helped to have a calming period to talk to someone and get an explanation of what is happening," she said. "I wasn't in favor of meeting with clients before their arraignment, but now I find it extremely helpful."

---Johanna Carey, Chief Public Defender

In the Wexford-Missaukee Public Defender Office:

- Four-attorney public defenders cover two counties
- The counties are providing efficient services because they cover same circuit and district courts
- Budget includes funding for attorney and paralegal staff, office rent and continuing legal education required under MIDC standards

Next Standards

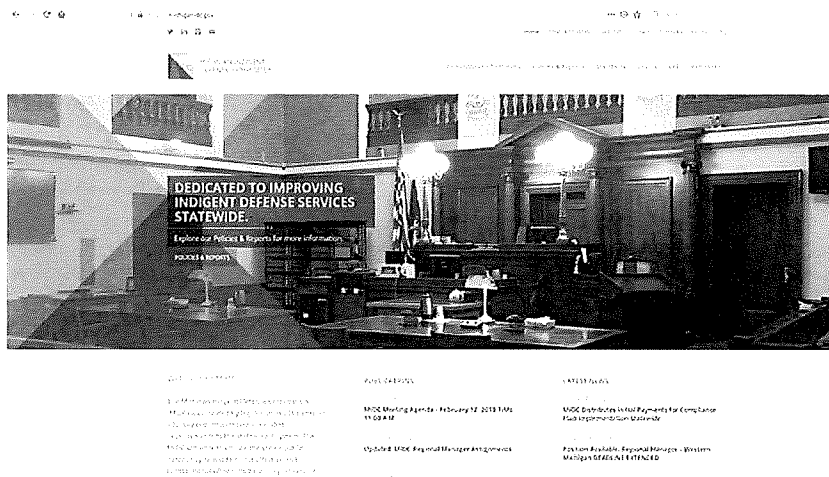
Standard 5 – Judicial independence. MCL 780.991(1)(a);

Standard 6 – Caseload controls. MCL 780.991(2)(b);

Standard 7 – Qualification and review of defense counsel. MCL 780.991(2)(c);

Standard 8 – Economic disincentives or incentives to effective representation. MCL 780.991(2)(b).

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Find out more at michiganidc.gov

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