

**Michigan Indigent Defense Commission  
Report to the Legislature per P.A. 268 of 2016, Section 325**

**Public Act 238 of 2016 requires the following:**

From the funds appropriated in part 1, the Michigan Indigent Defense Commission (MIDC) shall submit a report by September 30 to the senate and house appropriations subcommittees on judiciary, the senate and house fiscal agencies, and the state budget director on the incremental costs associated with the standard development process, the compliance plan process, and the collection of data from all indigent defense systems and attorneys providing indigent defense. Particular emphasis shall be placed on those costs that may be avoided after standards are developed and compliance plans are in place.

**Background**

The MIDC was established as a part of the judicial branch. Public Acts 439 – 443 of 2016 re-established the MIDC within the Department of Licensing and Regulatory Affairs. The transition will be finalized on October 1, 2017.

The information provided is based on the period from October 1, 2016 through August 31, 2017, the most recent data available prior to the due date for the report.

**Fiscal Year 2017 Expenditures**

	EXPENDITURES 10/1/2017 - 8/31/2017
Salaries and Wages	821,139.48
Longevity	780.00
Insurances	121,240.29
Retirement and FICA	480,272.66
Contracted Services, Supplies & Materials	67,930.27
Travel	27,185.89
Equipment	2,459.06
Rent	78,177.04
+	
Total	1,599,184.69
FY 2017 Appropriation	2,345,600.00
Amount remaining	746,415.31

The chart above reflects total spending in FY 2017 from the appropriation of \$2,345,600.

The salaries and wages line includes salaries for all office staff. Currently the office has 14 FTEs: an Executive Director, a Director of Training, Outreach, and Support, a Research Director, the State Office Administrator, the Grant Manager, six Regional Managers, a Research Associate, an Administrative Assistant, and a Policy Associate.

In addition to the funding appropriated for FY 2017, the MIDC had carry-over funding available in a FY 2016 work project in the amount of \$709,193. The MIDC spent \$30,500 in FY17, the majority of which was spent on a Regional Consultant's contract.

### **Standards and Compliance**

On May 22, 2017, LARA approved the MIDC's first set of minimum standards. These standards involve training and education of defense attorneys, the initial client interview, use of experts and investigators, and counsel at first appearance and other critical stages.

This approval started a 180-day deadline for submission of compliance plans and cost estimates, due November 20, 2017. The MIDC's six Regional Managers are based in designated areas throughout the state, and are working with local funding units to draft and submit compliance plans. To aid with this process, the Commission released an application and instructions guide for compliance planning that includes sample compliance plans. The MIDC also conducted a series of application webinars and over 100 funding unit representatives registered to participate.

The Commission published three additional standards for comment. These next standards address the need for independence from the judiciary, defender workload limitations, and qualification and review of attorneys accepting assignments in adult criminal cases. The Commission is currently accepting comments on these standards. A fourth new standard is currently in development; this standard addresses economic disincentives or incentives for attorneys practicing indigent defense. The Commission will have a comment period on this standard once it is published.

### **Data Collection**

In June of 2017, the Commission released the first survey of attorneys performing indigent defense. Over 340 attorneys practicing indigent defense in Michigan completed the survey.

Highlights from this survey include:

- Attorneys value training and education even though most courts do not require publicly appointed attorneys to complete annual continuing legal education.
- Attorneys encounter considerable difficulties meeting with in-custody clients related to the lack of confidential meeting space in jails and courthouses, the lack of payment for time spent conducting jail visits, and restrictive jail and prison visiting policies.
- Only 41% of courthouses in which surveyed attorneys practice and 56% of holding facilities visited by surveyed attorneys have meeting space that attorneys consider to be confidential.
- In most counties, attorneys report extremely low rates of compensation and describe the consequences of current payment structures on their ability to provide effective representation. More than half of the 59 attorneys who are not currently taking assigned cases shifted their practice because of issues related to compensation.

- Only 28% of surveyed attorneys consider the system in which they work to be independent from the judiciary.

In response to the concerns voiced in the survey, the MIDC Research Unit investigated the distribution of case assignments across circuit courts in Michigan to assess the prevalence of imbalance in the assignment process. The result of this research was published by the Commission in a research brief in June of 2017.

All standards, reports, and materials are available at [www.michiganidc.gov](http://www.michiganidc.gov).