

OFFICE OF THE PUBLIC DEFENDER, Allegan Van Buren Counties

2022 Annual Report



Chief Public Defender, Chad D. Catalino

Presentation Dates:

July 28, 2022, Allegan County
August 9, 2022, Van Buren County

www.allegancounty.org/courts-law-enforcement/public-defender

OFFICE OF THE PUBLIC DEFENDER

Our Purpose and Mission

The Regional Office of the Public Defender engages in stewardship that ensures that it zealously delivers quality, holistic public defense services to all eligible adults charged with a criminal offense in Allegan and Van Buren Counties.

Our Vision

To carry out this purpose, the Public Defender's Office:

1. Monitors compliance with MIDC standards and constitutional requirements;
2. Develops, implements and reviews best practices;
3. Develops relationships with community resources and stakeholders to support clients;
4. Recognizes the value and potential of each client and connects them with community resources beyond the legal process.
5. Exercises good stewardship of public funds;
6. Collects and analyzes data to assess the impact of the Office's work and inform its decisions in relation to its standards and Constitutionally effective assistance of counsel;
7. Provide a safe environment for clients and staff.

The Office of the Public Defender's (OPD) Staff and Roster attorneys are committed to and take pride in serving indigent defendants in Allegan and Van Buren Counties with zealously and sincerity. OPD is equally committed to continuous improvement through organizational and process review as well as the implementation of innovative Holistic Defense ideas. This purpose is accomplished through:

- regularly scheduled MIDC meetings;
- regularly scheduled stakeholder collaboration meetings;
- regularly scheduled staff meetings;
- regularly scheduled roster attorney meetings;
- participation in leadership meetings;
- regular collaboration with Allegan and Van Buren County Administration.

OPD's Allegan Office is staffed by:

- The Chief Public Defender (on a rotational basis);
- The Deputy Chief Public Defender (on a rotational basis);
- Two (2) Assistant Public Defenders;
- One (1) Legal Assistant;
- One (1) Social Worker (on a rotational basis);
- OPD has eight (8) roster attorneys serving out of Allegan County.

OPD's Van Buren Office is staffed by:

- The Chief Public Defender (on a rotational basis);
- The Deputy Chief Public Defender (on a rotational basis);
- Two (2) Assistant Public Defenders;
- One (1) Legal Assistant;
- One (1) Social Worker (on a rotational basis);
- OPD has eight (8) roster attorneys serving out of Van Buren County.

OPD's Assistant Public Defenders are engaged in all manner of representation related to the litigation of criminal cases for indigent defendants. The Assistant Public Defenders conduct hearing preparation prior to all representation as well as conduct Arraignment Hearings, Probable Cause Conferences, Preliminary Examinations, Pretrials, Motion Hearings, Trials, Sentencing Hearings, Interlocutory Appeals, Probation Violation Show Cause Hearings, Probation Violations Hearings, as well as are instrumental in collecting all data related to OPD's MIDC Standards. OPD's Assistant Public Defenders have also been instrumental in implementing and refining OPD's Legal Internship Program through Michigan State University College of Law, and Indiana University.

OPD's Roster Attorneys are also engaged in all manner of representation related to the litigation of criminal cases for indigent defendants. The Roster Attorneys are responsible for the same litigation work as the Assistant Public Defenders, however they are not generally responsible for providing arraignment representation nor are they primarily responsible for significant data collection related to OPD's MIDC Standards.

OPD's Legal Assistants are responsible for the assignment of cases to the Staff and Roster Attorneys, which includes all administrative assignment support to the Staff and Roster attorneys. Additionally, the Legal Assistants provide litigation and administrative support for the Staff Attorneys related to the litigation of their cases. Moreover, OPD's Legal Assistants are significantly responsible for ensuring the collection and organization of MIDC data related to MIDC Standards. Finally, OPD's Legal Assistants are responsible for the first level of operational interaction with both OPD's stakeholders and OPD's clients.

OPD's Social Worker provides Holistic Defense support to indigent defendants as part of OPD's integrated, interdisciplinary defense team. OPD's Social Worker helps OPD provide clients with, (a) Seamless access to services that meet legal and social support needs; (b) Dynamic, interdisciplinary communication; (c) Advocacy tied to an interdisciplinary skillset; and (d) a robust understanding of, and connection to, the Allegan and Van Buren communities. OPD's Social Worker is instrumental in client advocacy in partnership with OPD's Staff and Roster Attorneys; developing partnerships with various stakeholders related to Holistic Defense services; developing community outreach programs; as well as a myriad of other high level Holistic Defense services. OPD's Social Worker has also been instrumental in implementing and refining OPD's Social Worker Internship Program through Grand Valley State University, Hope College and Andrews University.

OPD is working collaboratively with its Staff, Roster Attorneys and their Staff to develop a professional indigent defense law firm where indigent defendants will receive the highest level of representation available, regardless of a client's ability to pay. OPD is working to help its Staff and Roster Attorneys embrace this concept and ultimately display the implementation of this core principle. Ultimately, OPD anticipates that, as we gain greater implementation of this core principle, OPD's Staff, Roster Attorneys and their Staff will be instrumental in changing attitudes regarding indigent defense representation and allow greater confidence in OPD and the criminal justice system in Allegan and Van Buren Counties as a whole.

OPD expresses its most sincere appreciation and gratitude to all of the Office of the Public Defender's Staff and Roster attorneys and their Staff for their dedication and hard work. Without them, OPD would be unable to provide indigent defense services to indigent clients and our community at large. I, the Staff, and the Roster Attorneys and their Staff are honored to serve the people of Allegan and Van Buren Counties in a manner that continues to build trust and confidence in OPD's representation of its clients.

The Staff of the Office of the Public Defender



Chad Catalino
Chief Public Defender

Vacant
Deputy Chief Public Defender



Christopher Hemry
Assistant Public Defender



McKaylyn Mitrzyk
Assistant Public Defender



Dario Sierra
Assistant Public Defender



Mariah Silverstein
Assistant Public Defender



Whitney Gibson
Social Worker



Julie Robbins
Legal Specialist



Lacey Willsea-Honicutt
Legal Specialist

Roster Attorneys of the Office of the Public Defender

Allegan

Matthew Antkoviak
Christopher Burnett
Fredrick Jensen
Paul Klein
Suzanne Klein
Mike McEwen
Michael McInerney
Laurie Tange

Van Buren

Nichole Dunfield
Caleb Grimes
M. Zoe Hutchins
Suzanne Klein
James Kolosowsky
Roland Lindh
Gary Stewart

OPD has contracted with eight (8) Roster Attorneys who serve indigent defendants in Allegan County. OPD has contracted with seven (7) Roster Attorneys who serve indigent defendants in Van Buren County. Roster Attorney Suzanne Klein serves in a regional capacity in both Allegan and Van Buren Counties.

Additionally, OPD has contracted with Andis Sivikis, Michael Villar, and Richard Catalino to take on special case assignments as well as provide MIDC authorized mentoring to OPD's less experienced attorneys. These special case assignments have allowed OPD to manage the complications associated with high level felony litigation; provide case assignment relief to the rotational Roster Attorneys; and provide significant trial level litigation mentoring to those attorneys who have limited expertise in high level felony litigation.

Moreover, despite the challenges associated with recruiting additional roster attorneys under the current market conditions, OPD continues its recruiting efforts. OPD continues to recruit through MIDC, regional bar associations, law schools, judges, attorneys, regional private law firms and OPD's cadre of former legal interns, in effort to contract with qualified attorneys to represent indigent defendants in Allegan and Van Buren Counties. Through these recruitment efforts OPD is currently in negotiations with two (2) attorneys who are likely to be added to OPD's regular Roster Attorney assignment rotation schedule in the coming months.

COMPLIANCE

In September 2019 OPD became fully operational. Over the course of the following three (3) years OPD, in conjunction with MIDC and County Administration, determined that OPD's most relevant operational measures related to OPD's compliance with MIDC standards. MIDC Standards 1 through 5 have been approved by LARA and OPD is in compliance with those standards. MIDC Standard "Indigency" has also been approved by LARA and OPD is in compliance with that Standard. MIDC Standards 6-8 are still proposed standards, however OPD has been in substantial compliance with proposed Standards 6-8 for the majority of its operational history. The remaining portion of this annual report is intended to provide insight into OPD's compliance and provide the Board of Commissioners, Stakeholders and our Community an opportunity to better understand OPD's compliance measurements.

COMPLIANCE WITH APPROVED MIDC STANDARDS

MIDC Standard 1 – Education and Training of Defense Counsel

MIDC Relevant Measurements:

1. Knowledge of the law.
2. Knowledge of scientific evidence and applicable defenses.
3. Knowledge of technology.
4. Continuing education (12 hours of Continuing Legal Education)

OPD Compliance:

2019: All Staff Attorneys and Roster Attorneys, except for one (1) Roster Attorney, met the twelve (12) hours of Continuing Legal Education requirement.

Relating to the one (1) Roster Attorney who failed to comply with MIDC Standard 1, a corrective action plan was implemented and that Roster Attorney corrected the failure by January 31, 2020 and was reinstated.

2020: All Staff and Roster Attorneys met the 12 hours of Continuing Legal Education requirement.

2021: All Staff and Roster Attorneys met the 12 hours of Continuing Legal Education requirement.

2022: All Staff and Roster Attorneys are tracking to meet the 12 hours of Continuing Legal Education requirement.

While MIDC Standard 1 calls for all attorneys accepting indigent defense cases to complete twelve

(12) hours of Continuing Legal Education, the Staff and Roster Attorneys of OPD are routinely exceeding the minimum twelve (12) hours of Continuing Legal Education requirement. OPD Staff and Roster Attorneys have attended the following outside training programs:

- MIDC Leadership Training Conference
- Criminal Defense Association of Michigan Conferences
- State Appellate Defender's Office trainings
- National Association of Public Defenders Conferences
- National Legal Aid & Defender Association trainings
- National Association of Drug Court Professionals trainings

As a result of OPD's Staff and Roster Attorneys' dedication to meeting the requirements of MIDC Standard 1, OPD has witnessed a perceptible increase in the application of knowledge learned through these Continuing Legal Education opportunities whereby the Staff and Roster Attorneys are providing more relevant analysis of scientific, technological and legal issues arising in indigent defense cases. OPD has witnessed a perceptible increase in the filing of motions related to Daubert issues, and challenges to the Government's legal theories. These increases have led to more zealous and productive representation of indigent defendants.

Additionally, OPD's less experienced attorneys have participated in intensive trial training and basic skills classes, namely:

- Hillman Trial Advocacy Program
- Criminal Defense Association of Michigan Trial Training Program
- MIDC JAG Program
- OPD's In-House Trial Training Program

These intensive trial training and basic skills classes have afforded OPD's less experienced Staff and Roster Attorneys the opportunity to practice their litigation skills in an environment that will not negatively impact an indigent client. These intensive trial training and basic skills classes have also allowed OPD to advance its Staff and Roster Attorneys toward representing indigent clients in increasingly more complicated cases in shorter experiential time frames.

While OPD is dedicated to encouraging its Staff and Roster Attorneys to seek outside training opportunities, OPD is also dedicated to leading indigent defense training reform. This dedication to lead in indigent defense training reform has allowed OPD to seek out opportunities to utilize the collective experience of its Staff and Roster Attorneys to provide OPD "in-house" training opportunities for its Staff and Roster Attorneys, as well as attorneys within the MIDC West Region. In fact, OPD is extremely proud of the fact that many of its in-house trainings, presented by its attorneys and social workers, have been well attended by staff and roster attorneys and social workers associated with or employed by many other public defense systems across West Michigan. OPD's in-house trainings included:

- OPD's In-House Trial Training Program

ARIDE / OWI training
Social Work / Holistic Defense instruction
Michigan Sentencing Guideline Training
Allegan County Specialty Court Training
Van Buren County Specialty Court Training
Homicide Case Preparation Training
West Michigan Investigator Group Training
West Michigan Social Worker Group Training

Challenges:

At the inception of OPD's operational role, many attorneys locally, as well as across the State, expressed concern regarding the perceived burden that MIDC Standard 1 would cause to attorneys who had previously never been accountable for maintaining and documenting a minimum level of professional competence. Over the preceding three (3) years that overall concern has dissipated significantly. However, OPD recognizes that, unless OPD remains vigilant in its accountability toward meeting its mandates, the indigent defense system will likely revert to less effective representation of indigent defendants. Consequently, OPD has implemented a MIDC Standard 1 accountability protocol to ensure that the progress that has been made continues. Specifically, related to MIDC Standard 1:

1. Staff or Roster Attorney identifies a training they would like to attend.
2. Staff or Roster Attorney submits request to Chief Public Defender for attendance approval.
3. Chief Public Defender approves or denies training attendance.
4. Staff or Roster Attorney attends training.
5. Staff or Roster Attorney completes and signs internal OPD training attendance verification form at the completion of training attendance.
6. Staff or Roster Attorney electronically submits that internal OPD training attendance form to OPD.
7. OPD keeps that internal OPD training attendance form on file.
8. No later than December 31, OPD reviews all OPD training attendance forms on file for the year to confirm compliance.
9. If there is a compliance failure, Staff or Roster Attorney is contacted and informed. Corrective action plan is implemented.
 - a. Any attorney that has compliance failure will have all current cases reassigned and no future assignments will be made until the CLE compliance is rectified.
10. Through the MIDC Quarterly Reporting process OPD's CLE compliance is communicated to MIDC.

MIDC Standard 2 – Initial Interview

MIDC Relevant Measurements:

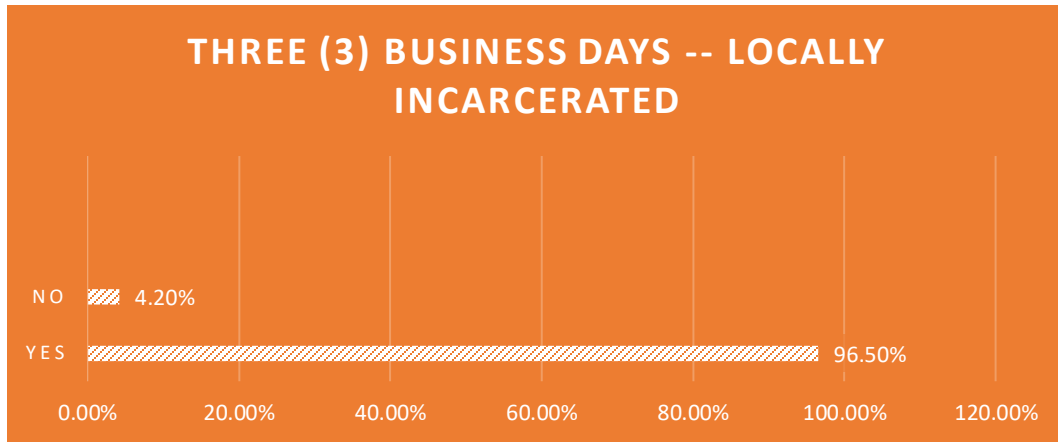
1. Initial Interview is conducted as soon as practicable after appointment, but minimally;
2. Defendant in local custody, initial interview shall be conducted within three (3) business days of appointment.
3. Defendant not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.
4. Defendant in MDOC custody or detained in a different county, counsel should arrange for a confidential client visit in advance of the first pretrial hearing.

OPD Compliance:

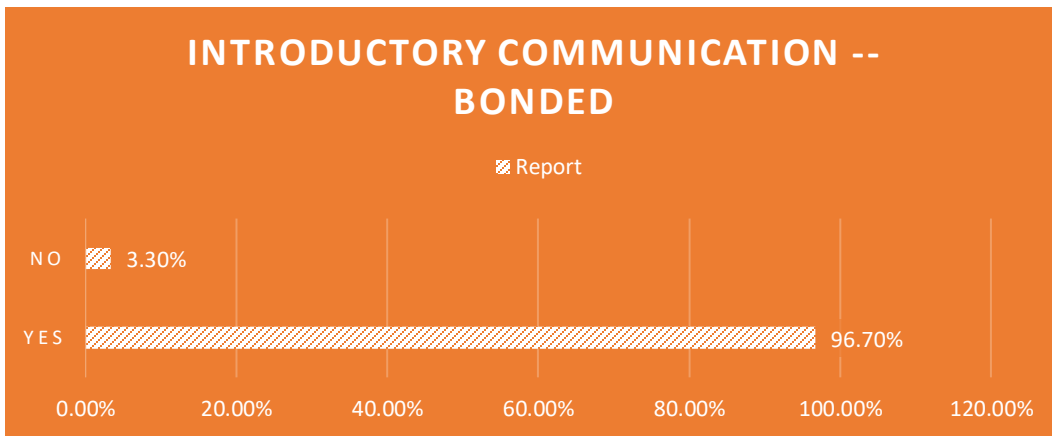
MIDC Standard 2 has been implemented to help alleviate the concern that indigent defense counsel was historically derelict in their duty to timely communicate with their indigent clients. Prior to Michigan's indigent defense reforms, indigent defense counsel's initial meeting with a client was routinely conducted at the client's pretrial hearing. This method of initial case interaction did not afford indigent defense counsel an opportunity to conduct any meaningful evaluation of a case; meaningfully inform clients' of the procedural posture of their case or their place in the criminal justice system; explore potential factual or legal issues or problems; or otherwise provide the most effective representation available.

While many indigent defense attorneys, throughout the pre-reform years, attempted to provide the most effective representation available, it eventually became clear that initial meeting requirements were necessary to help indigent defendants more effectively navigate the criminal justice system. MIDC Standard 2 was implemented to provide specific guidance on how to alleviate this outlined concern as well as provide indigent defense systems opportunities to measure their progress toward compliance with these initial communication requirements.

From 2019 through 2022 OPD has implemented MIDC Standard 2 as well as data tracking procedures to help OPD ensure that it is meeting its indigent clients at the earliest possible time in order to provide clients with relevant information and secure necessary evidentiary information that allows OPD to conduct proper investigations and vetting of the Government's allegations. The below cited data evidences OPD's compliance with the three (3) identified facets of MIDC Standard 2.

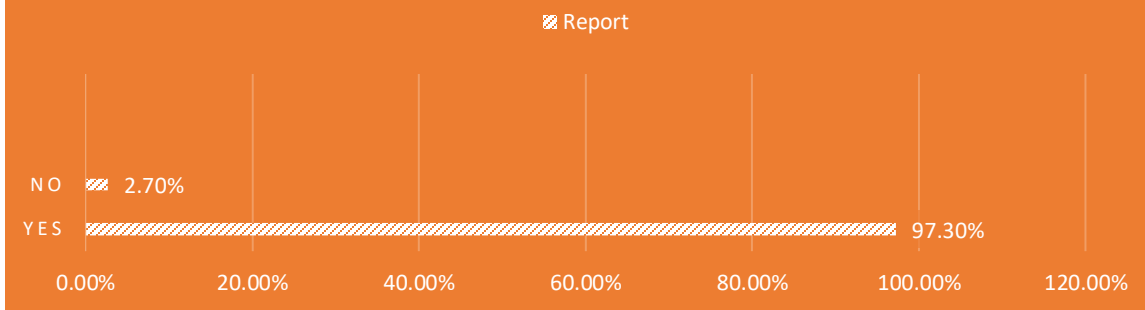


For locally incarcerated individuals OPD meets its three (3) business day initial meeting requirements on 96.5% of its assigned cases. At MIDC’s 2022 Annual Leadership Conference MIDC Executive Director Kristen Staley indicated that the State average related to MIDC Standard 2 is 96% compliance. Moreover, during that same presentation, Executive Director Staley indicated that MIDC considers this State average as complete compliance with Standard 2. Consequently, OPD is in complete compliance with Standard 2 related to locally incarcerated defendants.



For bonded individuals OPD meets its introductory communication requirement in 96.7% of its assigned cases. At MIDC’s 2022 Annual Leadership Conference MIDC Executive Director Kristen Staley indicated that the State average related to MIDC Standard 2 is 96% compliance. Moreover, during that same presentation, Executive Director Staley indicated that MIDC considers this State average as complete compliance with Standard 2. Consequently, OPD is in complete compliance with Standard 2 related to introductory communications with bonded defendants.

NON-LOCAL INCARCERATED -- COMMUNICATION PRIOR TO PRETRIAL



For non-locally incarcerated individuals OPD meets its communication prior to initial pretrial in 97.3% of its assigned cases. At MIDC's 2022 Annual Leadership Conference MIDC Executive Director Kristen Staley indicated that the State average related to MIDC Standard 2 is 96% compliance. Moreover, during that same presentation, Executive Director Staley indicated that MIDC considers this State average as complete compliance with Standard 2. Consequently, OPD is in complete compliance with Standard 2 related to introductory communications with non-locally incarcerated defendants.

Challenges:

As MIDC initially announced the implementation of MIDC Standard 2, many seasoned indigent defense professionals believed that MIDC Standard 2 was over burdensome and was impracticable in its application. Many seasoned indigent defense professionals insisted that implementing meeting timeframes would not solely allow for meaningful client conversations due to the fact that indigent defense counsel did not often receive timely discovery information or there were significant obstacles to receiving discovery information that would render the necessity of an early client meeting moot. These initial arguments, while potentially initially meritorious, have been in practice alleviated as a potential result of the Standard itself.

Specifically, there are several potential goals of MIDC Standard 2:

1. Establish the best possible relationship with the indigent client;
2. Review charges;
3. Determine whether a motion for pretrial release is appropriate;
4. Determine the need to start up any immediate investigations;
5. Determine any immediate mental or physical health needs or need for foreign language interpreter; and
6. Advise that clients should not discuss the circumstances of the arrest or allegations with cellmates, law enforcement, family or anybody else without counsel present.

It has now become evident that, even if there are discovery issues, the initial client meeting is just

as important for building a client's confidence in their assigned attorney and providing a client assurances that their assigned counsel is working their case. Moreover, and maybe most importantly, the time pressures associated with Standard 2 in and of itself encourages assigned counsel to remedy discovery issues early on in the case thereby rendering the initial client meeting more productive.

Over the preceding three (3) years OPD recognizes that, unless OPD remains vigilant in its accountability toward meeting its mandates, the indigent defense system will likely revert to less effective representation of indigent defendants. Consequently, OPD has implemented a MIDC Standard 2 accountability protocol to ensure that the progress that has been made continues. Specifically, related to MIDC Standard 2:

1. Assignment made to Staff or Roster Attorney.
2. No later than the Monday at 12:00 noon following the assignment week, assigned attorney files an electronic form indicating compliance with MIDC Standard 2 related to the attorneys weekly assignments.
3. Electronic form collects the following data:
 - a. Attorney Name.
 - b. Date range of assignments?
 - c. Total number of assignments?
 - d. Of the total number of assignments, how many were locally incarcerated clients?
 - e. Was the 72-hour standard met for all locally incarcerated clients?
 - f. If answer to above is NO, provide client name and brief explanation.
 - g. Of the total number of assignments, how many were bonded clients?
 - h. Were all bonded clients provided a prompt letter of introduction with instructions to schedule an appointment?
 - i. If above answer is NO, provide client name and brief explanation.
 - j. Of the total number of assignments, how many were MDOC or non-locally incarcerated clients?
 - k. For all MDOC or non-local incarcerated clients, was the institution contacted to arrange for a confidential meeting in advance of first pretrial hearing?
 - l. If answer to above is NO, provide client name and brief explanation.
4. Chief or Deputy Chief Public Defender reviews electronic form on a weekly basis to ensure continued compliance.
5. If any compliance issues are identified the attorney is contacted and a corrective action plan is implemented.
6. Data is communicated to MIDC through the Quarterly reporting process.

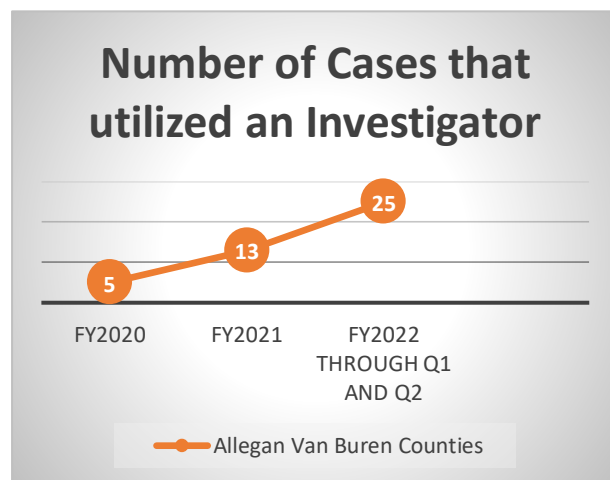
MIDC Standard 3 – Investigation and Experts

MIDC Relevant Measurements:

1. Investigation of charges and offense.
2. When appropriate, counsel to request funds to retain an investigator.
3. When appropriate, counsel shall request assistance of experts.
4. All reasonable requests shall be honored.
5. Counsel has continuing duty to evaluate for appropriate investigator or expert witness assistance.

OPD Compliance:

Prior to the operational inception of OPD in September 2019, data regarding the use of investigators and expert witnesses for indigent defense cases is unavailable. As part of OPD’s operational compliance with MIDC Standard 3, OPD implemented a system that allows Staff and Roster Attorneys to be granted investigative and expert witness assistance related to their indigent case assignments. These investigative and expert witness assistance requests have been removed from the realm of judicial funding and oversight and now allows assigned counsel the opportunity to request investigative and expert witness assistance without detrimental impacts to case strategy and tactical decision making as well as concerns regarding underfunding. OPD is extremely proud that its MIDC Standard 3 Compliance planning has resulted in increases in the use of these necessary and constitutionally effective investigative and expert witness resources.

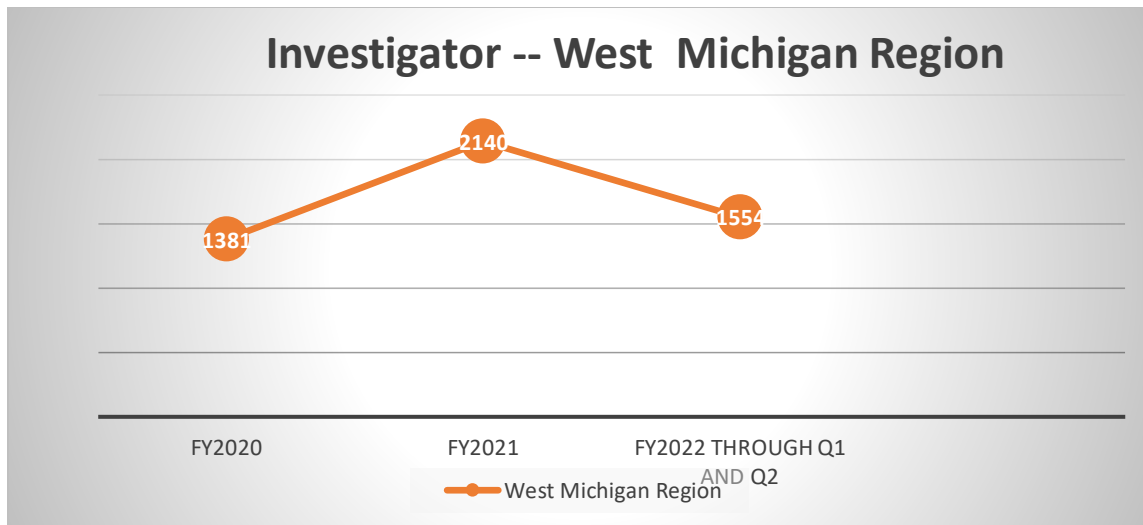


In FY2020 Staff and Roster Attorneys requested and were granted five (5) investigators to assist in the defense of indigent defense cases between Allegan and Van Buren Counties.

In FY2021 Staff and Roster Attorneys requested and were granted thirteen (13) investigators to assist in the defense of indigent defense cases between Allegan and Van Buren Counties.

FY2022, through Quarter 2, Staff and Roster Attorneys requested and were granted twenty

five (25) investigators to assist in the defense of indigent defense cases between Allegan and Van Buren Counties.



MIDC Data related to investigator assistance across the West Michigan Region indicates that OPD is trending higher in the continued increased utilization of investigator assistance. A comparison between FY 2022 Quarter 1 and Quarter 2 data between the West Michigan Region and OPD evidences that OPD is better utilizing investigative assistance in FY 2022.



In FY2020 Staff and Roster attorneys requested and were granted nine (9) expert witnesses to assist in the defense of indigent defense cases between Allegan and Van Buren Counties.

In FY2021 Staff and Roster attorneys requested and were granted fourteen (14) expert witnesses to assist in the defense of indigent defense cases between Allegan and Van Buren Counties.

In FY2022, through Quarter 2, Staff and Roster attorneys requested and were granted eight (8) expert witnesses to assist in the defense of indigent defense cases between Allegan and Van Buren Counties. Should the current FY2022 trends continue, OPD anticipates an increase in expert witness utilization over both FY2020 and FY2021.

Challenges:

Prior to the Michigan Indigent Defense reforms, indigent defense attorney’s experienced significant challenges associated with securing investigative or expert witness assistance within an indigent defense case. Namely, indigent defense counsel would be required to petition the court for funding for investigative or expert witness assistance. The courts were generally underfunded

related to providing the requested assistance and defense counsel often believed that courts took every opportunity available to deny indigent defense counsel's request. Moreover, as a result of being required to file a motion with the court related to investigative or expert witness assistance, indigent defense counsel was often required to explain in open court, with the prosecutor present, their trial and overall litigation strategy related to indigent defense counsel's request for investigative or expert witness assistance. This placed an indigent defendant at a disadvantage related to their litigation strategy, a disadvantage that was not one borne by their wealthy counterparts. MIDC Standard 3 has alleviated this overall disadvantage.

Over the past three (3) years OPD has worked diligently to overcome its Staff and Roster Attorneys' reluctance to request and use investigative and expert witness assistance, which was ingrained in many of OPD's Staff and Roster Attorneys through the processes employed during the pre-reform years. The above cited data evidences the fact that OPD's Staff and Roster Attorneys are beginning to recognize the value and the ease with which they may obtain investigative and expert witness assistance through the processes in place at OPD. In fact, OPD is extremely proud of the fact that over the preceding three (3) years, taking into account its fiscal responsibilities to Michigan tax payers, only one (1) request for investigative or expert witness assistance has ever been denied and that denial was alleviated with another process. OPD is proud of the fact that the data evidences an upward trend toward the better utilization of investigative and expert witness assistance. Finally, OPD is proud of the fact that it has been able to utilize MIDC funding to help place indigent defendants on the same level as their more wealthy counterparts. OPD will continue to encourage its Staff and Roster Attorneys to utilize MIDC Standard 3 over the ensuing years for the benefit of their indigent clients thereby adding to the legitimacy of the criminal justice system as a whole.

MIDC Standard 4 – Counsel at First Appearance and Other Critical Stages

MIDC Relevant Measurements:

1. Counsel appointed as soon as defendant determined to be eligible for indigent defense services.
2. Counsel appointed as soon as the defendant's liberty is subject to restriction by a judge or magistrate.
3. Counsel appears at arraignment.
4. Informed waiver of counsel.
5. Counsel appears at pre-trial proceedings, during plea negotiations, and other critical stages.

OPD Compliance:

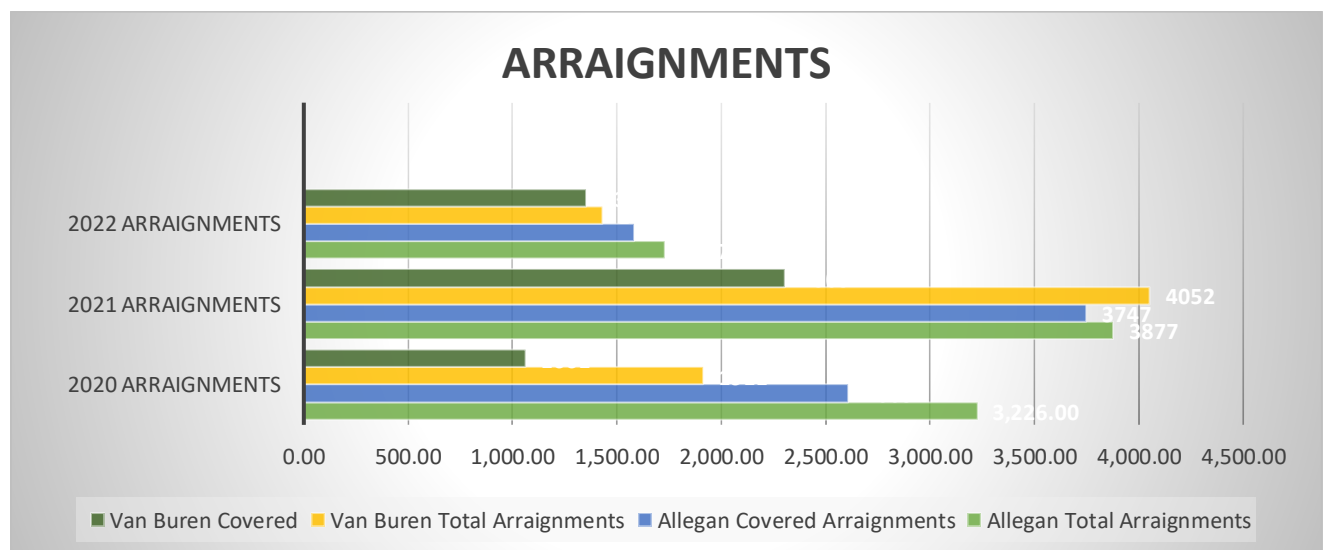
Prior to the operational inception of OPD in September 2019, data regarding the appearance of counsel at first appearance (arraignment) and other critical stages is unavailable. As part of OPD's operational compliance with MIDC Standard 4, OPD in close partnership with the courts and other stakeholders, implemented a system that allows OPD Staff Attorneys to represent defendants at

arraignment and other critical stages thereby allowing indigent defendants the same access to pretrial and critical stage relief as those defendants who are able to retain counsel.

OPD’s implementation of MIDC Standard 4 has allowed better client representation by maintaining focus on the purpose of that early representation at arraignment. Specifically:

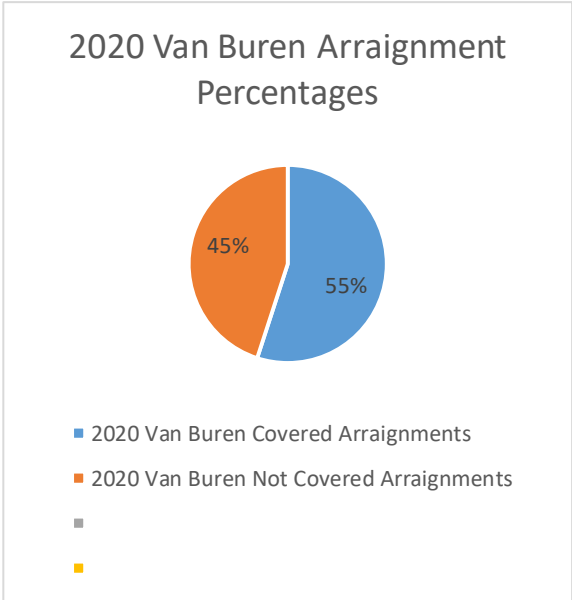
1. Explaining the criminal justice process to an indigent defendant;
2. Advice on what topics to discuss with the judge or magistrate at the arraignment;
3. A significant focus on arguments related to pretrial release;
4. Achievement of dispositions outside the criminal justice system via civil infraction or dismissal;
5. If there has been an opportunity for a review of discovery and a confidential conversation with the client, a criminal disposition at arraignment.

A focus on these arraignment goals has allowed OPD to make more relevant and legally significant bond arguments, thereby potentially reducing pretrial detention costs. It has allowed OPD to increase the use of early plea negotiations, thereby also potentially reducing pretrial detention costs as well as associated litigation costs. It has allowed OPD to have earlier access to client information thereby potentially reducing associated litigation costs. It has allowed OPD to have earlier access to witness information thereby increasing the effectiveness of early investigations. It has allowed the streamlining of the arraignment hearing itself with the associated court time savings; and it has allowed OPD attorneys the opportunity to build client confidence within the indigent defense representation thereby reducing defendants’ historical complaint that they were not provided the effective assistance of indigent counsel.

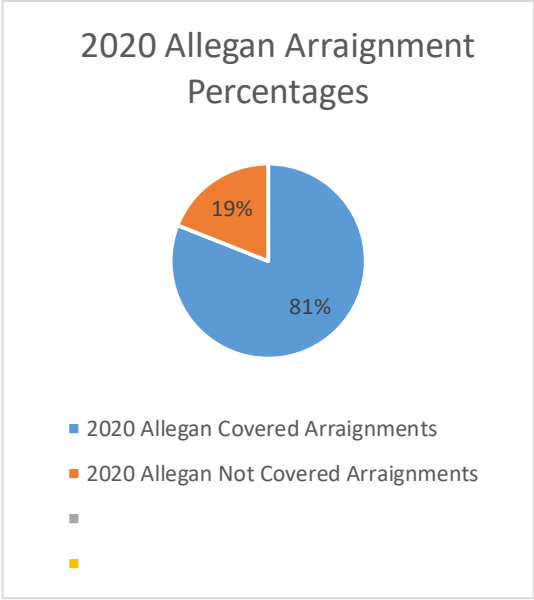


**Comparison of total arraignments by year and by county;

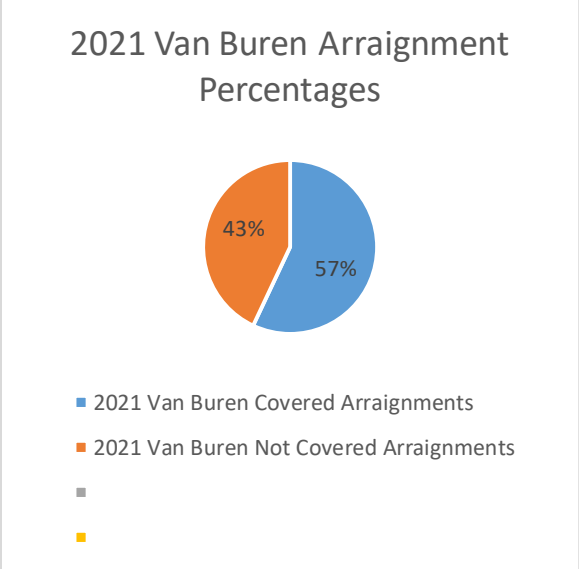
**Comparison of OPD’s appearance at arraignment by year and by county.



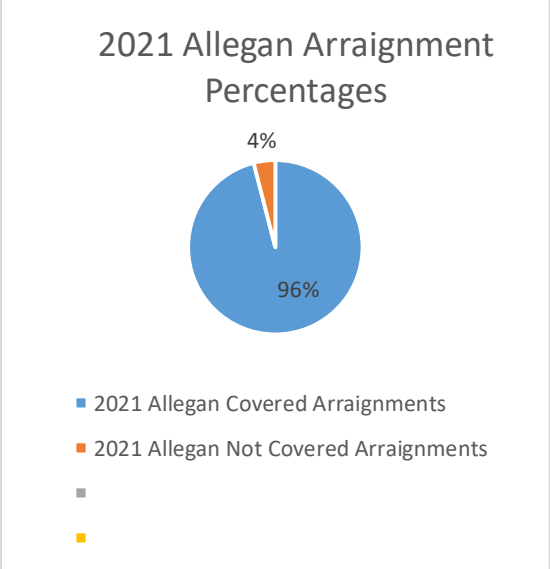
*2020 – 55% of arraignments covered in VBCO



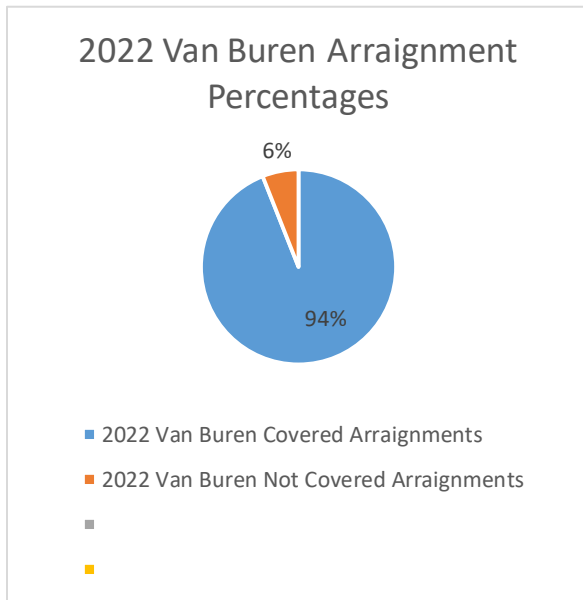
*2020 – 81% of arraignments covered in Allegan



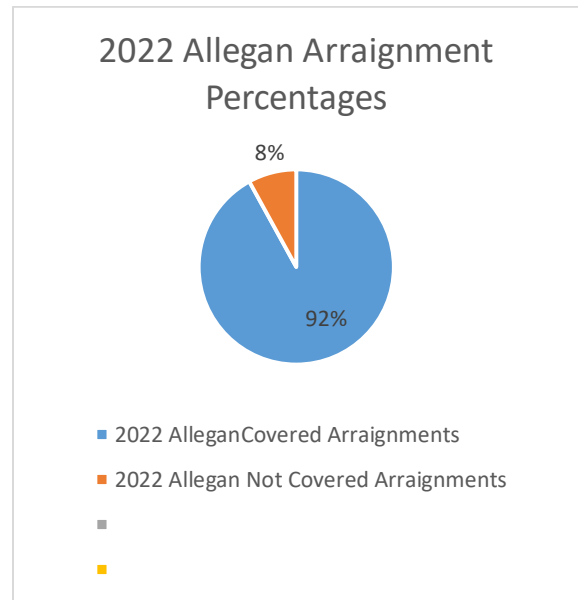
*2021- 57% of arraignments covered in VBCO



*2021-96% of arraignments covered in Allegan



*2022- 94% of arraignments covered in VBCO



*2022-92% of arraignments covered in Allegan

Challenges:

The compliance planning related to MIDC Standard 4 required intensive collaborative work between the Courts, Jail Administrations and OPD. In 2020 OPD, the Courts and Jail Administrations conducted significant collaborative planning relating to the potential operative procedures needed to implement the processes to meet MIDC Standard 4 compliance. In actuality, the implementation of MIDC Standard 4 required the building of a completely new arraignment process throughout the criminal justice system as that system had never contemplated the necessities of this reform. The above cited data for 2020 reflects the fact that representation at the arraignment stage was extremely challenging as OPD, the Courts and Jail Administrators developed mutually acceptable methods regarding OPD's appearance at arraignment and compliance with MIDC Standard 4.

The above cited data for 2021 also reflects that OPD and the Van Buren County Courts continued to be engaged in the challenging work of developing mutually acceptable methods regarding OPD's appearance at arraignment and compliance with MIDC Standard 4.

The above cited data for 2022 reflects that OPD and its regional partners have been able to make significant strides toward implementing a collaborative plan to meet OPD's mandate that it appear at all arraignments and be in compliance with MIDC Standard 4. While OPD, the Courts and Jail Administrations have made these significant strides, there are still challenges ahead. OPD will continue to work with its partners and MIDC to address these challenges and OPD looks forward to reaching the goal of representing 100% of defendants at arraignment.

MIDC Standard 5 – Independence from the Judiciary

MIDC Relevant Measurements:

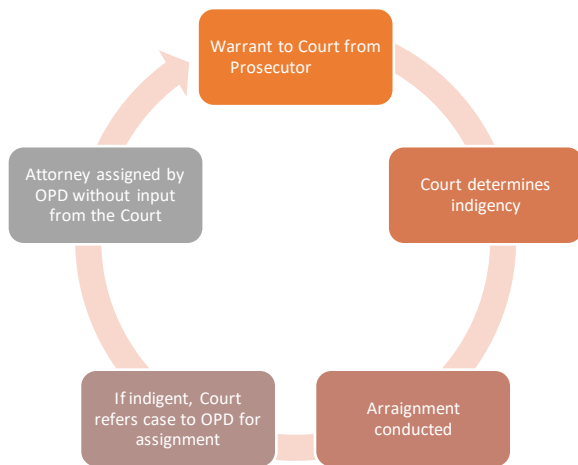
1. Guarantee the integrity of the relationship between lawyer and client.
2. Lawyers are free from political and undue budgetary influence.
3. Selection of lawyers and the payment for their services shall not be made by the judiciary or employees reporting to the judiciary.
4. Selection and approval of expenses necessary for providing effective assistance of defense counsel shall not be made by the judiciary or employees reporting to the judiciary.
5. The court's role shall be limited to its role as the third branch of government.
6. The courts are permitted and encouraged to contribute information and advice concerning the delivery of indigent criminal defense services.

OPD Compliance:

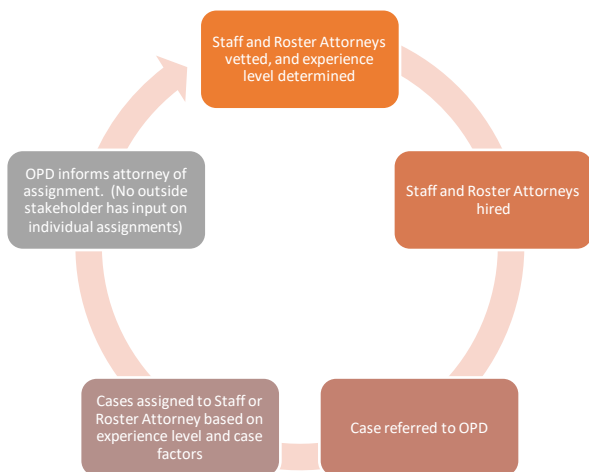
One of the historical issues with the Michigan Indigent Defense system, prior to the Michigan Indigent Defense reforms, revolved around a process whereby assigned counsel was often vetted, hired and retained to perform indigent defense services at the sole discretion of an individual court, or at the sole discretion of a judicial panel. This prior system allowed judges to exercise supervisory authority over individually assigned counsel and thus exercise perceived supervisory authority over the manner with which assigned counsel handled individual cases or caseloads. Moreover, through this historical system, assigned counsel often felt significant pressure to conduct litigation in a manner that conformed to a court's ideas as compared to the performance of their litigation duties in conformance with effective assistance of counsel and Constitutional requirements.

As a result of these recognized pressures, public defense professionals worked diligently to establish norms and standards that would help alleviate the pressures placed on assigned counsel through the separation of the assignment of indigent defense counsel from court involvement and oversight. Finally, while some stakeholders had initial disagreement with the idea that the indigent defense system should be free from judicial oversight and influence, there were still many other courts, attorneys, prosecutors and stakeholders that understood the necessity of removing that oversight and were ultimately supportive of the idea that indigent defense counsel should be free from unnecessary court oversight and influence.

Fortunately, the Allegan and Van Buren County Courts and stakeholders have been some of the most progressive proponents regarding OPD being separate from the judicial branch and judicial oversight and influence. OPD is extremely grateful that the Allegan and Van Buren County Courts have supported OPD's compliance operations related to MIDC Standard 5.



External Process: From 2019 through 2022 OPD has been solely responsible for the appointment of assigned counsel in compliance with MIDC Standard 5. This flow chart outlines the external assignment process and how that process is outside judicial oversight subsequent to the case being referred to OPD.



Internal Process: From 2019 through 2022 OPD has been solely responsible for the appointment of assigned counsel in compliance with MIDC Standard 5. This flow chart outlines the internal assignment process and how that process is outside judicial oversight subsequent to the case being referred to OPD.

As a result of OPD’s compliance with MIDC Standard 5, OPD has been able to establish case assignment autonomy, thereby limiting the historical concerns related to outside oversight. OPD is extremely grateful to its partners for their support related to MIDC Standard 5 compliance.

MIDC Standard for Determining Indigency

MIDC Relevant Measurements:

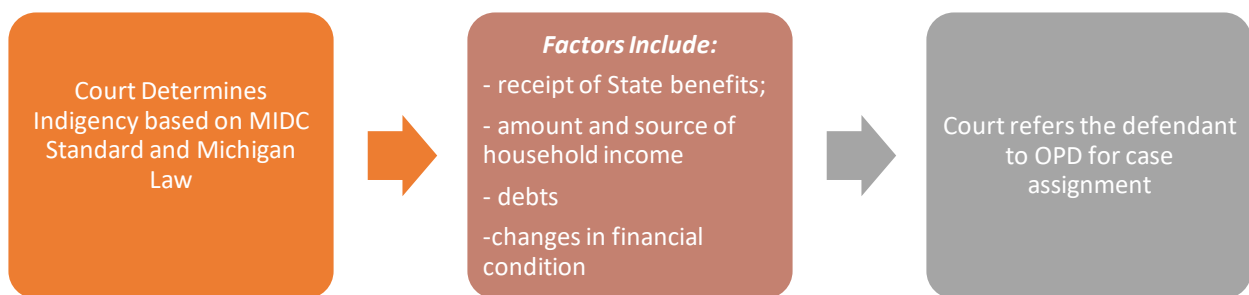
1. A reasonable plan for screening for indigency.
 - a. Courts screen for indigency and refer defendant to public defender for appointment; or
 - b. Public Defender screens for indigency and makes the case appointment.
2. Indigency screening factors to be considered.

OPD Compliance:

Prior to the Michigan Indigent Defense reforms, public defense professionals observed that there were discrepancies related to the actual determinations of a defendant’s indigency based on jurisdictional differences. For example, historically there have been jurisdictions within Michigan that have been aggressive in their appointment of indigent defense counsel, while there have been other jurisdictions that have been much more conservative in their appointment of indigent defense counsel. The MIDC Standard for determining indigency has been designed to reduce these discrepancies and provide guidance for systems related to the appointment of indigent defense counsel.

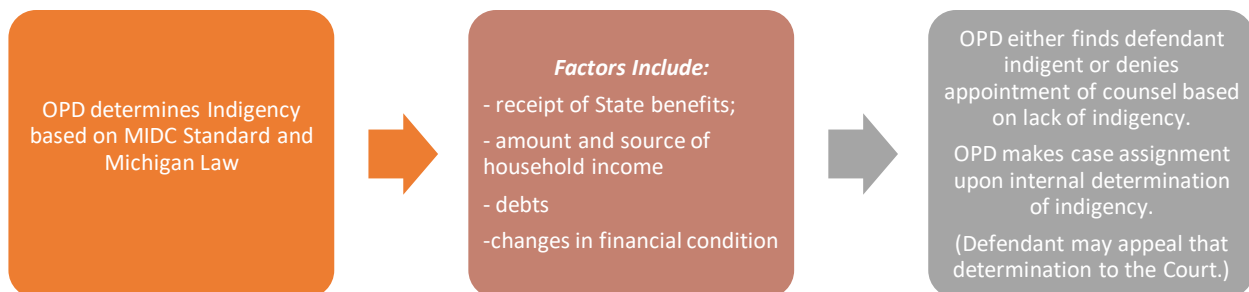
Currently OPD, in collaboration with the Courts, has met MIDC compliance with this Standard whereby the Courts conduct the screening for indigency and refers the defendant to OPD for appointment of counsel.

2019 THROUGH 2022 PROCESS:



It is anticipated, through MIDC additional financial grant support, that OPD will be amending its compliance plan to allow OPD to meet this MIDC Standard from an entirely in house perspective in FY 2023.

ANTICIPATED 2023 PROCESS:



While OPD has been in complete compliance with this MIDC Standard, it is OPD’s hope that the additional

MIDC Grant financial supports will allow OPD to alleviate some of the administrative burden on the Courts, related to the determination of indigency, while continuing to meet the goal of parity across jurisdictional lines.

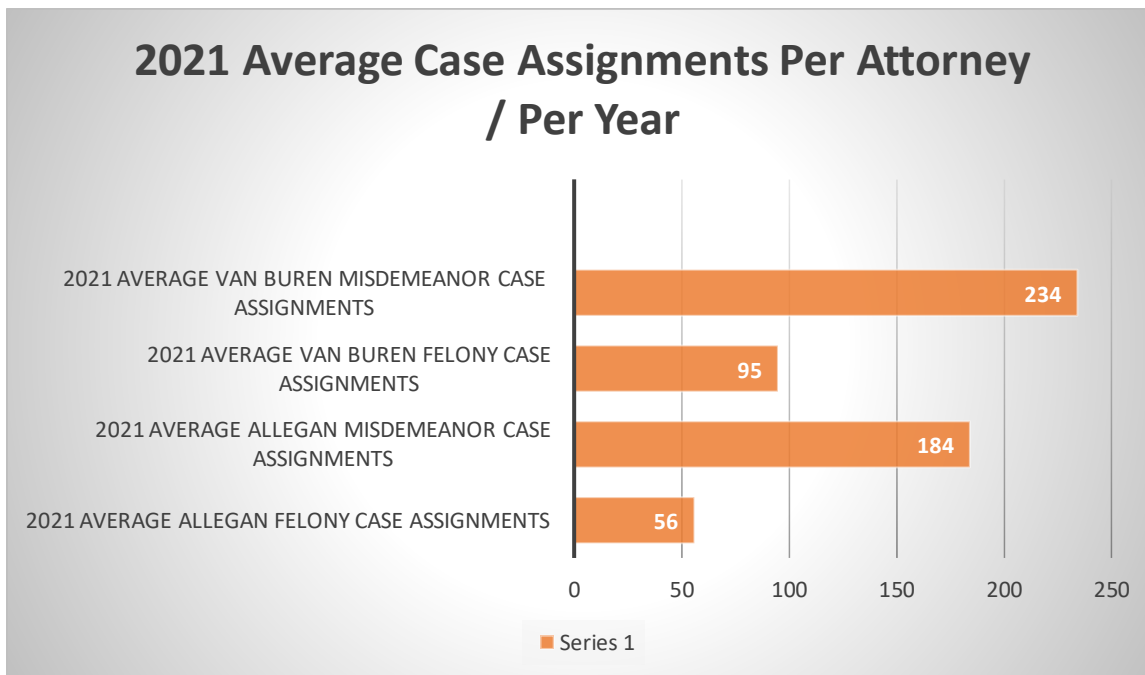
COMPLIANCE WITH PROPOSED MIDC STANDARDS

MIDC Standard 6 – Indigent Defense Workloads

MIDC Relevant Measurements:

1. Caseloads shall allow each attorney the ability to give each client the time and effort necessary to ensure effective representation.
2. Workloads shall be determined over time through special “Michigan specific weighted caseload studies.”
3. Until the completion of said studies, caseload assignments are recommended as follows:
 - a. Not exceed 150 new felony assignments per year.
 - b. Not exceed 400 new non-traffic misdemeanors per year.
 - c. Mixed caseloads, proportional to allow effective representation.

OPD Compliance:



*Case assignment numbers reflect total number of cases for 2021 (from internal OPD data) divided by number of staff and roster attorneys accepting those assignments to determine the average number of assignments per attorney in 2021.

A review of 2021 internal data reflects that OPD is within the allowable case assignment recommendations

as enunciated through MIDC proposed Standard 6. While case assignment data appears to reflect compliance with MIDC proposed Standard 6, OPD will be engaging in additional study related to MIDC proposed Standard 6 as OPD day to day operations potentially indicates a discrepancy related to this case assignment data versus OPD's Staff and Roster Attorneys work levels.

While OPD will engage in additional study related to MIDC proposed Standard 6, OPD has implemented other MIDC proposed Standard 6 operational measures in an effort to allow OPD Staff and Roster Attorneys the ability to provide effective assistance of counsel. Specifically:

1. OPD has utilized its flexibility in its case assignment processes to assign more work intensive cases to Staff and Roster Attorneys who are in a better workload position to take on those more work intensive cases.
2. OPD has increased assignment communications thereby allowing Staff and Roster Attorneys to inform OPD when they are experiencing an overwhelming assignment period.
 - a. This in turn has allowed OPD to make modifications to its assignment schedule to help alleviate these concerns; and
3. OPD has developed a Homicide Team to help alleviate the intensity of accepting homicide cases while also accepting regular rotational assignments.

OPD is hopeful that the continued review of its data, combined with its case assignment scheduling, will allow OPD's indigent defense counsel continued opportunity to practice within lower case numbers and thereby allow OPD's indigent defense counsel the ability to engage in the entirety of the necessary criminal investigation and litigation processes associated with effective representation.

MIDC Standard 7 – Qualification and Review

MIDC Relevant Measurements:

1. Defense counsel's ability, training and experience match the nature and complexity of the case to which they are appointed.
2. Defense counsel is systematically reviewed at the local level for efficiency and for effective representation according to MIDC standards.

OPD Compliance:

As has been previously outlined, prior to the Michigan Indigent Defense reforms, there were significant issues related to the appointment and oversight of assigned counsel. As a result of these issues, many indigent defendants did not receive indigent defense counsel that had the requisite knowledge, experience and expertise needed to provide indigent defendants with effective representation. MIDC proposed Standard 7, in conjunction with other MIDC Standards, has been proposed for implementation in order to help alleviate this concern.

Due to the importance of ensuring an effective level of representation OPD has taken significant steps to implement MIDC proposed Standard 7. Specifically:

- OPD Staff and Roster Attorneys handling Misdemeanor cases have:

- Met Michigan Bar Admission standards;
- Basic Skills requirements; and
- Have served as co-counsel or second chair in prior criminal trials, or gained equivalent experience.
- OPD Staff and Roster Attorneys handling Low Severity Felony cases have:
 - Met Michigan Bar Admission standards;
 - Basic Skills requirements; and
 - Have practiced criminal law for one (1) full year;
 - Have served as trial counsel or co-trial counsel in two (2) criminal cases that have reached a verdict; or gained equivalent experience.
- OPD Staff and Roster Attorneys handling High Severity Felony cases have:
 - Met Michigan Bar Admission standards;
 - Basic Skills requirements; and
 - Have practiced criminal law for two (2) full years;
 - Have served as lead counsel or handled a significant portion of four (4) jury trials that have been submitted to a jury; or gained equivalent experience and demonstrated a record of consistently high quality criminal trial court representation with the ability to handle high severity felony cases.
- OPD Staff and Roster Attorneys handling Life Offense cases have:
 - Met Michigan Bar Admission standards;
 - Basic Skills requirements; and
 - Have practiced criminal law for five (5) full years
 - Have served as lead counsel in no fewer than seven (7) felony jury trials that have been submitted to a jury; or gained equivalent experience and demonstrated a record of consistently high quality criminal trial court representation with the ability to handle Life Offense felony cases.

OPD is pleased to announce that, over the past several years, OPD's Staff and Roster Attorneys have significantly increased their level of trial experience. Many of OPD's Staff and Roster Attorneys have had the experience of trying more than five (5) jury trials in the previous several years. Moreover, with MIDC approval, OPD has utilized its homicide specific counsel to provide OPD's Staff and Roster Attorneys with mentoring through the ability to act as co-counsel and second chair counsel on the most significant type of criminal case. This mentoring by experienced homicide counsel provides significant levels of cross over training for lower level cases thereby increasing OPD's ability to increase its Staff and Roster Attorneys' equivalent experience levels. This in turn, has allowed OPD to place itself in a position to increase its attorneys' level related to the complexity of their assignments over a shorter experiential time frame.

OPD looks forward to continuing to lead in the adaptation of its training processes to provide its Staff and Roster Attorneys with the opportunity to gain criminal trial experience and thereby increase the level of effective representation over shorter periods of time.

MIDC Standard 8 – Attorney Compensation (Economic Disincentives or Incentives)

MIDC Relevant Measurements:

1. Reasonable salaries and benefits and resources should be provided to indigent defense counsel.
2. Roster counsel should receive prompt compensation at a reasonable rate and should be reimbursed for their reasonable out of pocket, case related expenses.
 - a. Activities outside of court appearances, such as directing an investigation, negotiating, or tactical planning, etc., require no less legal skill and expertise than in court appearances, and are equally important to quality representation.
3. Attorney hourly rates shall be at least:
 - a. \$100 per hour for misdemeanors;
 - b. \$110 per hour for non-life offense felonies;
 - c. \$120 per hour for life offense felonies.

OPD Compliance:

Currently, OPD meets MIDC Standard 8 as follows:

- Staff Attorneys – compensated in accordance with prosecutor parity and based on wage studies of comparable systems.
- Roster Attorneys –
 - \$100 per hour misdemeanors
 - \$110 per hour low severity felonies (Sentencing Grid E, F, G, H)
 - \$120 per hour high severity felonies (Sentencing Grid, M, A, B, C, D)

A review of OPD's process evidences the fact that OPD is meeting MIDC proposed Standard 8. In fact, based on current hiring data, OPD has been able to recruit Staff Attorneys in part based on OPD's competitive compensation package. Moreover, a review of OPD's Roster Attorney compensation rate, as currently approved by MIDC, evidences the fact that OPD is providing the levels of compensation as recommended by MIDC.

Additionally, over the course of the preceding three (3) years, OPD has seen significant improvement related to providing compensation to indigent defense counsel related to out of court preparation for cases. A review of invoices from 2019 through Quarter Two of 2022 evidences the fact that indigent defense counsel in Allegan and Van Buren Counties are conducting more significant direction of investigations, negotiations, and tactical planning, and OPD's indigent defense counsel is being compensated for those significantly improved out of court case related activities. Moreover, a review of invoices from 2019 through Quarter Two of 2022 evidences a significant increase in reimbursement levels for case related expenses. Subpoena fee reimbursement requests and authorizations have increased; travel expense requests and authorizations related to case preparation have increased; legal research and case preparation requests and authorizations have increased; as well as other ancillary fee reimbursement requests and authorizations have increased. OPD submits that these compensation requests and

authorizations have directly impacted indigent defense counsel’s ability and desire to complete needed effective representation duties thereby increasing the level of representation for indigent defendants. OPD looks forward to continuing to lead in this reformation effort and to continue to provide levels of compensation commensurate with the expertise needed to provide defendants effective representation.

MIDC FINANCIAL COMPLIANCE

OPD’s current expense budget and FY2022 expenditures, through Quarter 2, are:

	<i>AMOUNT</i>	<i>PERCENT</i>
2022 Expense Budget	\$2,662,839.98	100%
Q1 Expenditures	\$703,085.45	26.4%
Q2 Expenditures	\$709,080.86	26.6%
Q3 Expenditures	Not Available	Not Available
Q4 Expenditures	Not Available	Not Available

OPD’s anticipated FY2023 expense budget is:

	<i>AMOUNT</i>	<i>PERCENT</i>
2023 Anticipated Expense Budget	\$4,386,080.08	100%

OPD’s FY2023 MIDC Grant request was approximately \$1,723,240.10 dollars more than its FY2022 awarded amount. OPD’s FY2023 MIDC Grant request reflects operational corrections that were not originally anticipated or required further understanding; reflect case assignment increases that were not able to be absorbed with current staffing levels; reflect operational challenges that needed to be addressed; and reflect additional collaborative work with MIDC and County Administration to address the potentiality for budgetary shortfalls.

OPD’s FY2023 MIDC Grant request incurs **NO** additional local share contribution for FY2023 and, pursuant to discussions with MIDC, **NO** additional local share contribution requests are anticipated in the near future. Consequently, OPD’s FY2023 MIDC Grant request will not require any additional county contributions from Allegan and Van Buren County tax payers.

LOOKING FORWARD

OPD wishes to be a leader in Michigan Indigent Defense reform and the application of standards, policies and procedures that allow OPD the opportunity to lead in those reformation efforts. Over the course of the next year OPD will continue to partner with MIDC, stakeholders and County Administration in an effort to increase efficiency, client representation, fiscal responsibility, and systemic viability. OPD looks forward to working with its partners and stakeholders to continue to build trust and confidence in the indigent defense system in Allegan and Van Buren Counties.

Finally, OPD looks forward to continuing to improve the quality of indigent defense services for the benefit of the citizens of Allegan and Van Buren Counties.

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