

Compliance Planning Costs

An indigent criminal defense system may submit to the MIDC an estimate of the cost of developing a plan and cost analysis for implementing the plan under MCL 780.993(2). Please attach documentation of planning time for FY20, if seeking reimbursement under this provision.

Are you submitting a worksheet for planning costs? Yes | No

If yes, do you have receipts showing that non-funding unit employees have been paid?

Yes | No

Submitter Information

Funding Unit/System Name: **Macomb County**

Submitted By (include name, title, email address and phone number): Vicki Wolber,
Deputy County Executive, Vicki.Wolber@macombgov.org 586-469-7001

Local Share

Please Note: Per MCL 780.983(i), the Local Share for your indigent defense system for FY 2020 will be indexed by 3% or the recent Urban Consumer Price Index (CPI), whichever is less. CPI for the most recent period is 2.2%; FY2020 requests should include Local Share funding enhanced by this factor.

Any change or corrections to your baseline local share calculation from FY19?

Yes | No

If yes, please explain:

Attachments Submitted

- ✓ Have you attached your FY20 cost analysis? Yes | No
- ✓ Did you submit a list of the attorneys providing services? Yes | No
- ✓ If applicable, did you attach documentation supporting reimbursement for compliance planning? Yes | No **(Inapplicable)**
- ✓ Have you attached your revised local share certification (with CPI increase)?
 Yes | No
- ✓ If you have developed any local policies for implementing the MIDC's Standards, please attach to this application.

Standard 1

Training of Attorneys

Number of attorneys as of October 1, 2019 **TBD (list fluctuates and cannot predict at this time).**

Number of attorneys with less than 2 years of Michigan criminal defense experience as of October 1, 2019 **TBD (list fluctuates and cannot predict at this time).**

Any changes in your training plan from FY19? Yes | No

If yes, please describe: **The Macomb County Bar has submitted additional requests for presenter stipends, program administration, prep costs, and an online information tracking system. We are requesting the creation of an Indigent Defense Administrator to manage appointed counsel. Please see the attachment for more detailed explanation.**

If the FY20 plan is approved as written, the Indigent Defense Administrator will be working directly with the Macomb County Bar Association and CDAM to track attorney CLE.

Any changes in your funding needs from FY19 for this standard? Yes | No

If yes, please describe: **Please see attachment with the revised plan for training from CDAM and the MCBA.**

Standard 2

Initial Attorney meetings

How and when are defense attorneys notified of new assignments?

The Court assigns counsel as soon as the request for counsel is received. Assignment is by random rotation. Attorneys are still notified via fax of the assignment, and we are currently working on implementing our plan to have all attorney assignment via e-mail. This occurs the same day the Court receives the request for counsel.

How are you verifying that in-custody attorney visits occur within three business days?

We are verifying all attorney visits through the billing for the initial preparation as per our compliance plan. Verifying that the interview has taken place within three business days has proven impossible with our current set up. Consequently, we will be changing our billing requests to include a verified statement from the attorney that the attorney conducted the initial client interview within 3 days for an in-custody defendant.

If our plan to shift to an Indigent Defense Administrator is approved, we will require the Indigent Defense Administrator to develop a more detailed plan (including

possibly audits or surveys with assistance and reporting from the Sheriff's Department) to insure compliance with this standard.

How are you verifying introductory communications from the attorney with defendants who are not in custody?

Please see the response to the preceding question. The billing request form will be updated to include an appropriate verified statement from the attorney that the "introductory communication" to an out-of-custody defendant was conducted "promptly," i.e., 3 days. Again, if our plan to transition to an Indigent Defense Administrator is approved, we would anticipate (and require) more stringent oversight of compliance with this standard.

How are you compensating attorneys for this standard? Please provide details:

Attorneys are paid \$100 for initial preparation including the initial client interview.

Any change in the initial interview procedure from your FY19 plan? Yes | No

If yes, please explain:

We will begin verifying the timeliness of the visits in accordance with the procedure outlined above.

Any change from your FY19 funding needs for initial interviews? Yes | No

If yes, please explain:

Confidential Meeting Spaces

Are there confidential meeting spaces in the jail? Yes | No

Please explain or describe: **There are confidential meeting spaces at the County Jail. The Jail is in the process of building out additional spaces for polycom conferences.**

Are there confidential meeting spaces in the courthouse for in-custody and out-of-court clients? Yes | No

Please explain or describe: **There are rooms in the Circuit Court and the 42-2 District Court for confidential meeting space. There is room being built at the 42-1 District Court for in-custody confidential meeting space. We additionally have polycom units available for contacting out-of-court clients at the Circuit Court, available in confidential spaces. We will be ordering polycom units for the 42-1 and 42-2 District Court (in accordance with our existing Compliance Plan).**

Any change from the FY19 plan for meeting spaces? Yes | No

Please explain or describe: **Two additional polycom units are being requested, one additional for attorneys to utilize at the front section of the jail, allowing them to meet with inmates housed in the booking area of the jail. Based on the expected number of interviews from other funding units in Macomb County, we anticipate the need for two spaces for these interviews. The other unit will be located in the Indigent Defense Administration office. The construction project at the Macomb County Jail is still in process, we are hopeful this will be completed by the end of FY19, with substantial completion approval in October of 2019. Additional IT equipment and services have also been included in the FY20 plan to allow for computers, cameras, network drops to be installed in the video arraignment rooms.**

Any change in FY19 funding needs for meeting spaces? Yes | No

Please explain or describe: **The interview room construction project at 42-1 District Court is expected to be completed in September 2019. However, an additional \$50,000 has been requested for construction completion costs. A substantial completion approval is not expected until October of 2019 which will result in billing into FY2020.**

Additional costs for a polycom unit at the Indigent Defense Administrator office will be incurred to allow for interviews between the staff attorneys and inmates at the Macomb County Jail as well as one additional inside the jail explained above to account for the additional funding units in Macomb County that have included these visits in their compliance plans as well.

If you had construction for meeting spaces in your FY19 plan, please provide an update on the construction project: **The construction at 42-1 District Court is in process, anticipated to conclude in 2019. The construction project for the arraignment area of the Macomb County Jail is currently open for bids, the bid process is expected to be completed by June and construction is expected to be complete by September, with substantial completion approval of the project expected in October. Once the project is near completion, correctional officers will be hired and assigned to coordinate the transfer and monitoring of inmates for arraignments and visitations.**

Standard 3

Experts and Investigators

MIDC FY20 COMPLIANCE PLAN AND COST ANALYSIS RENEWAL

Do you have a written policy for requesting experts or investigators? Yes | No

If yes, please explain or attach: **There is no written policy. All attorneys may request experts or investigators from the assigned Judge. We are currently advising the judges to award expert and investigator fees in accordance with the MIDC hourly schedules, up to an appropriate limit – in the judge’s discretion – based on the complexity of the case. Assigned counsel can request additional fees if this limit is going to be exceeded.**

Any change in the process from FY19? Yes | No

If yes, please explain: **We are requesting the creation of an Indigent Defense Administrator and ancillary support staff. If this request is approved, all roster attorneys will be directed to request experts or investigators from the Indigent Defense Administrator. Appropriate written policies will be promulgated and publicized to effectuate compliance with this change. If the transition to an Indigent Defense Administrator is approved, the Indigent Defense Administrator would be responsible for evaluating expert fees as well, rather than leaving this decision to each individual Judge, thereby insuring consistency in the distribution of these funds. The Indigent Defense Administrator would be required to disburse funds in accordance with the MIDC hourly schedules up to an appropriate limit. The Indigent Defense Administrator would be required to evaluate appropriate limits based on the complexity of the case, and apply these limits equitably.**

Any change in your funding needs for Standard 3 from FY19? Yes | No

If yes, please explain:

Standard 4

Counsel at First Appearance and Other Critical Stages

How are you providing counsel at first appearance and other critical stages? Please provide details: **We are actively seeking attorneys to serve as arraignment attorneys at the 42-1 and 42-2 District Court.**

Are there any misdemeanor cases where your court accepts pleas without the defendant appearing before a magistrate or a judge? For example, pleas by mail, over the counter pleas, etc. Yes | No

If yes, please provide details: **Occasionally – and typically when the defendant is incarcerated or out-of-state – they submit a plea by mail on the SCAO-approved form DC 223.**

How are you calculating compensation for this standard? Please provide details: **Per our existing compliance plan, attorneys are compensated \$200 per day to remain on call for walk-in arraignments and pick-ups, and \$25 per arraignment.**

Will there be any change in this process from FY19? Yes | No

If yes, please explain: **We have been informed that MIDC is now interpreting this standard as also applying to bench warrant probation violations at the Circuit Court level. Consequently, we will be developing a list of arraignment attorneys at Circuit Court as well. At the Circuit Court Level, we will likely need two attorneys available per day to satisfy this standard. We would keep the two Indigent Defense staff attorneys on-call to handle arraignments as well.**

Any change in how you are paying attorneys for this standard from FY19? Yes | No

If yes, please explain: **The plan at District Court remains unchanged. At Circuit Court, we will adopt the same pay schedule as is currently approved for the District Court. The Indigent Defense staff attorneys will be paid a salary (and have additional job duties).**

Will there be any change in your funding needs for this standard from FY19?

Yes | No

If yes, please explain: **Implementing this standard at the Circuit Court level will require approximately 2 attorneys each day. At \$200 per day, for two attorneys, multiplied by 260 work days per year, the base on call pay is \$104,000. Assuming 25 arraignments per day, this is an additional \$625 per day, multiplied by 260 days per year is an additional \$162,500. So implementing this standard for bench warrant probation violation arraignments at Circuit Court will cost approximately \$266,500.**

Personnel

Any personnel positions/hours eliminated or reduced from FY19? Yes | No

If yes, please explain: **Hours for the MIDC Compliance Liaison may be reduced to 15 hours per week, as this appears to be sufficient to fulfill the function of gathering all Court-specific data and assisting in the compliance reporting.**

Any additional positions/hours requested from FY19? Yes | No

If yes, please explain: **We propose the creation of Indigent Defense Administrator position for Macomb County. This individual will be responsible for the continued implementation of all MIDC standards, oversight of MIDC funds, and general operational control over roster attorneys in all three County-funded Courts (as**

explained in the individual sections of the Compliance Plan above). The Indigent Defense Administrator will also begin to develop a list of experts and investigators to be utilized by roster attorneys in Macomb County. The Indigent Defense Administrator will also begin working towards providing technology initiatives and resources for appointed counsel in Macomb County.

Along with these duties, one of the key goals of the Indigent Defense Administrator will be to evaluate the potential for a full-fledged Public Defender's Office in Macomb County, and prepare a detailed report and recommendations regarding the same within FY 20.

Additionally, the creation of the Indigent Defense Administrator will serve as a model for those district courts in Macomb County which are not funded by the County itself. The Indigent Defense Administrator's Office may grow, even within the first year, if the funding units of these other Macomb County Courts choose to opt in to the Indigent Defense Administrator's system (and devote an appropriate amount of funds and associated personnel to the system). We believe this will ultimately result in an economy of scale, and is more easily achieved at the County level than by various smaller funding units throughout the County.

In order to properly ascertain the benefits of a Public Defender's Office, we are requesting 4 additional staff persons to assist the Indigent Defense Administrator. Two staff attorney positions will be implemented. They will handle a portion of the bench warrant arraignments at the Circuit Court and a portion of the Class A (life) felonies at the Circuit Court. We do not anticipate an appreciable diminution in workload for roster attorneys on the basis of these two attorney positions, but we do believe that this will begin to provide a gauge for the appropriate workload for an eventual Public Defender Office and allow for overall evaluation of the pitfalls of such a system.

We are also requesting the creation of two clerical positions. On a day-to-day basis, one of these clerical staff members will be responsible for appointing counsel, and the other staff person will be responsible for reviewing attorney bills. Both of these staff members will be cross-trained so that they can perform either job duty.

In order to accurately reflect the new system, the Circuit Court’s Local Administrative Order 2014-1, the 42-1 District Court’s Local Administrative Order 2004-6, and the 42-2 District Court’s Local Administrative Order 2004-05, are in the process of being revised. While the Funding Unit does not have any authority in this regard, it is anticipated that a new Local Administrative Order will be in effect prior to 2020.

Finally, we believe it is important to provide some oversight and appellate opportunities for the decisions of the Indigent Defense Administrator with respect to adding, declining to add, removing, or sanctioning attorneys on the indigent defense attorney roster lists. Consequently, appeals from the decisions of the Indigent Defense Administrator adding, declining to add, removing, or sanctioning attorneys on the lists will be referred to the Circuit Court’s Indigent Panel Committee, or the judges of the 42nd District Court. Upon the enactment of Standard 5 (Independence from the Judiciary), a new panel will be constituted in accordance with a new Local Administrative Order enacted by the Court, so the Court may divest itself of involvement in the Panel Committee. Nothing in this plan shall be construed as limiting any rights of the judiciary under the Constitution or laws of the United States, the Constitution or laws of the State of Michigan, the Michigan Court Rules, appellate decisions, or the inherent power of the Court.

Any change in fringe benefits from FY19? Yes | No

If yes, please explain: **We estimate an increase of 4% in fringe benefits for 2020.**

Supplies & Other

Please list any supplies or equipment requested, and a brief explanation of need or use in FY20.

\$18,043 for computers (\$7578), telephones (\$965), IT support (\$13,500), laptops (3,000), and leased equipment (\$3,000) for the office of the Indigent Defense

MIDC FY20 COMPLIANCE PLAN AND COST ANALYSIS RENEWAL

Administrator and video court arraignment rooms, computers, and laptops are one time expenses. All individual costs are based on 2018 estimates and may vary.

\$20,000 office furniture for the office of the Indigent Defense Administrator to include 6 work stations, file storage, and miscellaneous office furniture needs, this is a one time expense.

\$5,000 for supplies for the Office of the Indigent Defense Administrator.

\$4,200 for annual Westlaw Access for the Office of the Indigent Defense Administrator.

\$8,000 for annual liability insurance for the Office of the Indigent Defense Administrator.

\$4,000 for annual travel and training for the Office of the Indigent Defense Administrator.

\$11,000 for two additional polycom systems, one at the Office of the Indigent Defense Administrator, one additional for the Macomb County Jail, this is a one time expense.

\$20,000 for renovations of the physical office space for the Office of the Indigent Defense Administrator, this is a one time expense.