



NATIONAL ASSOCIATION FOR PUBLIC DEFENSE

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KENT COUNTY INDIGENT DEFENSE ASSESSMENT

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**National Association for
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Prepared For:
**Kent County Indigent
Defense Administration**

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Executive Summary

The Kent County Indigent Defense Administration Office (KCIDAO) received a grant from the Michigan Indigent Defense Commission (MIDC) for an assessment of the Kent County indigent defense delivery system. The National Association for Public Defense (NAPD) was selected to conduct this assessment.

The overarching goal was to determine to what extent the current system maximizes available resources and optimizes services to clients and staff across Kent County. To complete its assessment, NAPD selected an assessment team, who reviewed records, observed processes, and interviewed people involved in public defense in Kent County.

NAPD finds that Kent County has made meaningful progress in improving its delivery of indigent defense services. The Kent County Indigent Defense Administrative Office (KCIDAO), supported by state funding, has helped ensure qualified counsel is appointed promptly for people who qualify.

NAPD also finds, however, that Kent County's structure for public defense administration – divided between the County, the City of Grand Rapids, and a three-court collaborative – does not have proper controls for overseeing all public defense operations and managing conflicts of interest. It also finds that the non-profit public defender, Kent County Office of the Defender (KCOD), is lacking effective oversight and leadership.

NAPD therefore recommends that Kent County makes these changes to improve its operational efficiency and quality of services:

- Consolidate public defense administration under KCIDAO.
- Create a county-run public defender office.
- Establish a public defense oversight board.
- Institute practices at the public defender office that support a culture of sustainability and safety.
- Develop county-wide practice standards and data reporting processes.

NAPD thanks Kent County for its cooperation with this report and is available for further consultation on implementing these changes.

Background

The Kent County Indigent Defense Administrative Office (KCIDAO) was provided grant funding by the Michigan Indigent Defense Commission (MIDC) for an assessment of their indigent defense delivery system. Specifically, the Kent County Indigent Defense Program leadership requested an evaluation of whether the current system maximizes available resources and optimizes services to clients and staff across the county. Kent County leadership requested a global assessment rather than a detailed critique of existing processes. KCIDAO chose the National Association for Public Defense (NAPD) to conduct the review.

Objectives

The leadership team tasked NAPD with the following objectives:

- Describe operations of the Kent County indigent defense delivery system.
- Identify obstacles in providing services.
- Provide recommendations to enhance operational efficiencies and effectiveness.
- Identify strategies to improve client outcomes.
- Review and provide feedback on culture, performance, use of data/technology, conflict policies, and ethical considerations.

Assessment Team

A five-member multidisciplinary NAPD assessment team conducted this assessment. Members of the assessment team have over 100 years of combined years of public defense practice, including in client-centered defense, training, leadership, and systems design.¹ The team also has a diversity of perspectives, and includes a mitigation specialist (social worker), three attorneys, and an administrative assistant. The experience and unique perspectives allowed the team to give a holistic assessment of the County, resulting in better recommendations to the stakeholders.

Methodology

Kent County identified the purpose of the Assessment through its MIDC-funded grant. NAPD Assessment Team members collected and reviewed information relevant to the issues identified to be assessed, made reasonable assumptions, and analyzed the information obtained in the context of legal authority, national standards, and practices in comparable public defense programs, and the relevant literature. The team identified patterns, strengths and deficiencies to make its Findings and Recommendations.

The NAPD Assessment Team reviewed the following sources to guide the findings and recommendations contained therein:

- Michigan Indigent Defense Commission Standards
- Kent County Circuit and District Court Statistics

¹ See Appendix 1, Assessment Team Biographies.

- Kent County Office of the Defender Statistics
- Kent County Indigent Defense Administration Office Statistics
- Kent County Office of the Defender Bylaws
- Investigator Request Statistics
- Mitigation Specialist Request Statistics
- Forensic Expert Request Statistics
- Jail Visitation Reports
- 2021 17th Circuit Court of Kent County Annual Report

The NAPD Assessment Team interviewed and obtained information from the following groups:

- Private appointed counsel (roster attorneys) representing persons charged with both misdemeanors and felonies
- Staff of the Kent County Office of the Defender, including:
 - Leadership
 - Attorneys representing people charged with misdemeanors and with felonies
 - Mitigation specialists
 - Investigators
 - Administrative staff
- Court Administration
- Indigent Defense Administrators
- District and Circuit Court Judges
- Kent County prosecutors

Acknowledgements

NAPD's assessment team wishes to thank all of those who were willing to speak with the team and were generous with their time and experience. Thank you, especially, to KCIDAO for facilitating this assessment.

County Profile

Location and Population

Kent County is the home of Grand Rapids and is the largest county in Michigan outside of the Detroit Area.² Its population is nearly 660,000 people and growing.³

As the County has said, “Kent County is home to a young, diverse, and educated population.”⁴ Compared to Michigan overall, it has a higher median income (\$77,028 locally versus \$66,986 statewide) and lower poverty rate (10.6% locally versus 13.4% statewide). Its largest racial and ethnic groups are non-Hispanic White (72.3%), Black (10.8%), and Hispanic or Latino (11.3%).⁵

Court Structure

In Michigan, locally-run trial courts handle criminal cases.⁶ Circuit courts are the highest courts and resolve felony cases and some serious misdemeanors. District courts handle most misdemeanor cases, preliminary stages of felony cases, and probation revocations. Probate courts handle other matters, including mental health matters.

In Kent County, the 17th Circuit Court, in Grand Rapids, is the highest court. There are five district courts: the 59th (in Walker and in Grandville), 61st (Grand Rapids), 62A (Wyoming), 62B (Kentwood), and 63 (Grand Rapids Township).

² Ottawa County Department of Strategic Impact, *Ten Largest Counties in Michigan (2022)*, https://www.miottawa.org/Departments/Planning/pdf/Databooks/Estimates_MichiganTop10.pdf. The three larger counties in the Detroit metro area are Wayne, Oakland, and Macomb County.

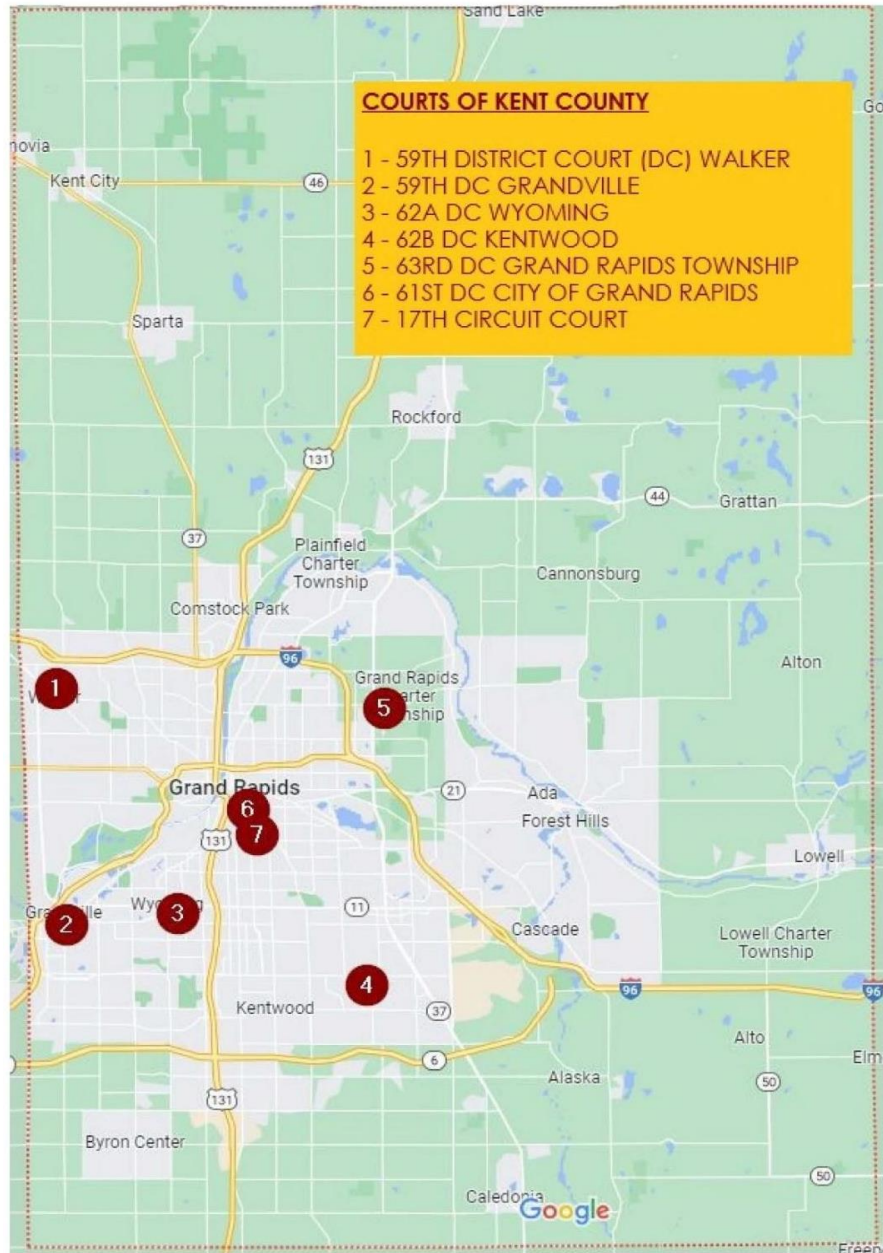
³ *Id.* See also U.S. Census Bureau, “Kent County, Michigan,” https://data.census.gov/profile/Kent_County_Michigan?g=050XX00US26081.

⁴ *Kent County Strategic Plan Update 2022-2023* at 5, <https://www.accesskent.com/Departments/BOC/pdfs/Reports/2022-Strategic-Plan.pdf>. Statistics from the Census Bureau show that its population, on average, is younger and has a higher degree of educational attainment than the state overall. See note 5.

⁵ U.S. Census Bureau, “QuickFacts: Kent County, Michigan,” <https://www.census.gov/quickfacts/fact/table/kentcountymichigan/PST045222>.

⁶ Michigan Courts, “Trial Courts,” <https://www.courts.michigan.gov/courts/trial-courts/>.

Figure 1: Map of Kent County Courts

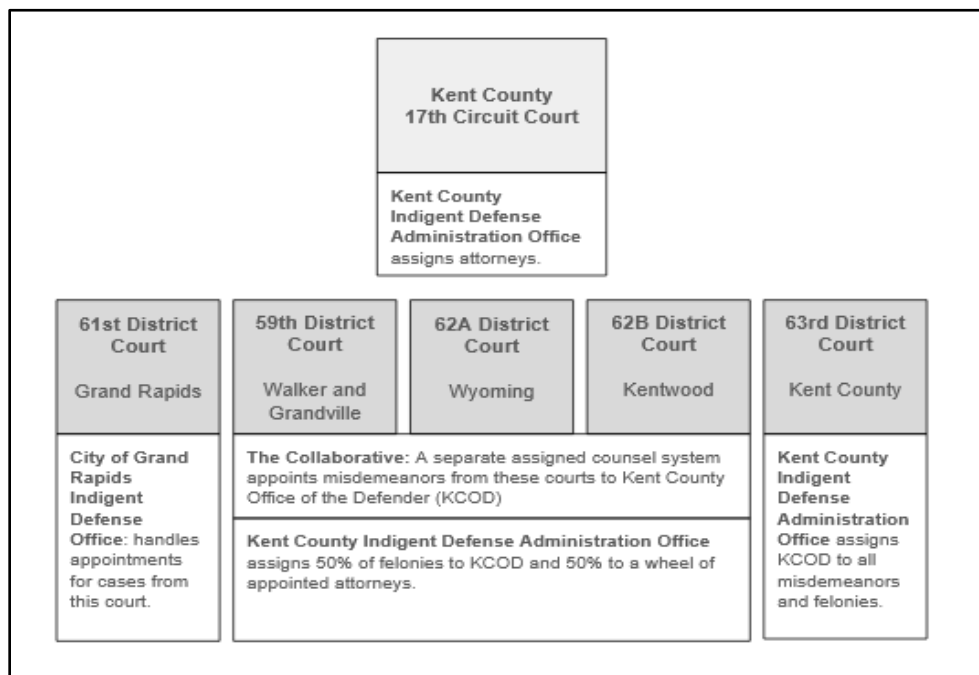


Indigent Defense Structure

In Michigan, indigent defense is locally-run, with state oversight and funding provided by the Michigan Indigent Defense Commission (MIDC). Local administrators select, appoint, oversee, and pay court-appointed counsel. Local service providers represent clients. Local governments can create their own indigent defense structures, but they must meet MIDC standards.⁷

Three separate entities in Kent County are public defense administrators and receive funding from MIDC: the Kent County Indigent Defense Administration Office; the City of Grand Rapids; and a three-District-Court collaborative. These entities appoint counsel from rosters of private attorneys or through contracts with a non-profit public defender, the Kent County Office of the Defender.

Figure 2: Kent County Indigent Defense Structure



Administrators

Kent County Indigent Defense Administrative Office

KCIDAO is part of the Kent County Administrator's Office. The team includes an Indigent Defense Administrator (who reports directly to the Kent County Administrator); Deputy Indigent Defense Administrator; Indigent Defense Administration Analyst; and a part-time assistant for case reconciliations. KCIDAO recently received grant funding for two more full-time positions, which will assist with appointments, reconciliations, and attorney billing, as the team transitions from flat fees to hourly billing for private attorneys.

KCIDAO assigns attorneys for felonies in the 17th Circuit Court (felonies); for preliminary stages of

⁷ MIDC, "Standards," <https://michiganidc.gov/standards/> (hereinafter "MIDC Standards").

felonies in the 59th, 62A, and 62B District Courts; and for misdemeanors and preliminary stages of felonies in the 63rd District Court. They assign about half of cases to a roster of private attorneys (about 50 total) and half to KCOD; in the 63rd District Court, all cases are assigned to KCOD. KCIADO randomly assigns roster attorneys or KCOD to felony cases through a computer application called CourtView and can override assignments when needed.

City of Grand Rapids

The City of Grand Rapids has an indigent defense administrator who assigns attorneys to attorneys to misdemeanor cases and felony first appearances in the 61st District Court. They assign cases to a roster of about 25 attorneys for misdemeanors and eight attorneys for felony first appearances.

The Collaborative

The 59th, 62A, and 62B District Courts have a “collaborative” and share an indigent defense administrator, who is a City of Wyoming employee. They contract with the KCOD to provide attorneys in nearly all misdemeanor cases, and have a small roster of attorneys for cases that would create a conflict of interest for KCOD.

Service Providers

Kent County Office of the Defender

The Kent County Office of the Defender (KCOD) is a private non-profit organization. Created in 1951, the office has recently grown from 17 employees (in 2019) to 43 employees (in 2023). It has a staff of 24 attorneys (including a director, deputy director, and district court supervisor), 5 social workers/mitigation specialists, 5 investigators, and 8 administrative/support staff.

As noted above, KCOD has (A) a contract with KCIDAO to handle (i) all misdemeanors and preliminary stages of felonies in the 63rd District Court and (ii) half of the preliminary stages of felonies in the 59th, 62A, and 62B District Courts; and (B) a contract with the three-court collaborative to handle all misdemeanors in the 59th, 62A, and 62B District Courts.

Roster Attorneys

KCIDAO maintains a roster of around 50 private attorneys, the City of Grand Rapids has a roster of 25 attorneys for misdemeanors and eight for felony first appearances; and the three-court collaborative has a small roster for KCOD conflicts.

Each entity puts out separate requests for proposals for private attorneys to join their rosters. To join KCIDAO’s roster, attorneys are required to meet (or exceed, in the case of CLE hours) all MIDC standards.⁸ By joining the roster, attorneys agree to accept at least ten felony and/or misdemeanor appointments a year. Attorneys have to submit monthly reconciliation statements that include the number of cases assigned, the defendant’s name, and a detailed certification regarding MIDC’s standard requiring an initial client interview within 72 hours.⁹ For fiscal year 2023-2024, attorneys will begin submitting hourly billing reports.

⁸ See Appendix 2, Kent County Request for Proposals for Roster Attorneys.

⁹ See Appendix 3, Example of Monthly Reconciliation Sheet for Roster Attorneys.

Findings and Recommendations

This section discusses findings and recommendations for immediate action. To best implement these recommendations, NAPD recommends restructuring of the indigent defense system, as discussed in the next section.

Kent County Office of the Defender

The Kent County Office of the Defender (KCOD) is a non-profit 501(c)(3) that contracts with Kent County to provide attorneys for indigent defendants. KCOD has recently grown from 17 employees in 2019 to 43 employees in 2023. KCOD has a total of 24 attorneys (including leadership) that handle cases in both the District and Circuit Courts.

Board of Directors

KCOD is governed by a Board of Directors¹⁰ and its bylaws.¹¹ NAPD evaluators requested the bylaws during the assessment process. The bylaws were shared after the assessment team completed the interviews. After a careful review of the bylaws and interviews about the structure and organization of KCOD, the team discovered several issues with both the bylaws and the Board of Directors.

Engagement in Operations

The current board meets infrequently and has long-time unfilled openings. From past meeting minutes, it appears that the board meets only once a year. According to interviews, the board takes the position that it does not need to be actively involved in KCOD's operations. Without an active board, neither leadership nor staff have the support and influence that they need.

Conflicts of Interest

Independence is the first principle of the ABA Ten Principles of a Public Defense Delivery System and second principle of NAPD's Foundational Principles.¹² The Ten Principles, long relied on by indigent defense systems experts as a roadmap for reform, list independence as their first principle. Independence means public defenders "should be independent of political influence and subject to judicial authority and review only in the same manner and to the same extent as retained counsel and the prosecuting agency and its lawyers."¹³ In particular, "no [oversight board] members should

¹⁰ The current members of the Board are listed on KCOD's most recent tax filing. ProPublica, Nonprofit Explorer: Kent County Office of the Defender, IRS Form 990 (2022), <https://projects.propublica.org/nonprofits/organizations/381568260/202342229349301009/full>.

¹¹ See Appendix 4, Kent County Office of the Defender Bylaws and Conflict Policy.

¹² Principle 1, *American Bar Association, ABA Ten Principles of an Indigent Defense Delivery System* (2023) (hereinafter "ABA Ten Principles"), https://www.americanbar.org/groups/legal_aid_indigent_defense/indigent_defense_systems_improvement/standards-and-policies/ten-principles-pub-def/. NAPD, *Foundational Principles* (2017) (hereinafter "NAPD Foundational Principles"), <https://publicdefenders.us/resources/foundational-principles/>.

¹³ Id. See also NAPD, *Statement on Independence of Public Defense Leaders and Programs* (2020), <https://publicdefenders.us/resources/statement-on-independence-of-public-defense/>.

be judges, prosecutors, law enforcement officials or current Public Defense Providers.” An MIDC standard¹⁴ and a State Bar ethics opinion¹⁵ also limit judicial conflicts of interest.

The KCOD Board of Directors includes members with potential conflicts of interest: an attorney who takes indigent defense appointments and an attorney referee who works in a quasi-judicial role in the 17th Circuit Court. People in these roles should not oversee the public defender.

Bylaws

The assessment team had difficulty obtaining the bylaws; it appeared they were rarely used.

The KCOD bylaws are incomplete and vague compared to typical bylaws for indigent defense organizations. The bylaws require two vice presidents, but there was only one seen by NAPD evaluators. The bylaws do not set out how the Chief Defender is appointed. The bylaws do not address conflicts of interests or define them, and make no mention of salary, raises, evaluations, minimum qualifications, data collection, or who determines indigency. If other policies have been created by KCOD, they were not made available to the assessment team.

Recommendations

The bylaws should be rewritten to add the following elements:

- Role definitions. The term “Director” is used for the board members, but is also used for the head of KCOD. This causes confusion about which person or position someone may be referencing.
- A values statement drawn from the ABA Ten Principles. Potential language could state that the "board's mission is to advocate for and provide high quality, well funded-public defense that ensures effective assistance of counsel for all eligible defendants."
- A ban on any conflicts of interest.
- Expectations of members.
- Statement of the purposes, goals and mission of KCOD.
- A presumption of monthly or bimonthly meetings.
- Requirement that board members attend and participate in all meetings. After a certain number of unexcused absences, presumptive removal Board members.
- Requirement of open meetings except when in executive session.
- Requirement that minutes are taken and published.
- Requirement that each meeting agenda has a report and update by KCOD Leadership, including the Director and Assistant Director. The report should include:
 - A budget report
 - Salary and salary ranges for KCOD
 - Staffing updates
 - Human resource issues
 - Case metrics, including number of cases tried, attorney caseloads
 - Decisions related to caseload assignment

¹⁴ MIDC Standards, Standard 5: Independence from the Judiciary.

¹⁵ State Bar of Michigan, Ethics Opinion J-8, Syllabus 5.a (January 31, 2014).

- Training initiatives
- Input and presentations by line attorneys and support staff.
- An ongoing commitment to training KCOD on statutory law, case law, and skills in and out of the courtroom.
- Staggered terms for members (to ensure continuity).
- Budget responsibilities for the Board, the Director, and Assistant Director, including knowledge of where money comes from and where it goes.
- A commitment to offer support, advice and resources regarding human resources matters, in executive sessions when necessary.
- An ongoing commitment to employ, train, and use professional support staff including investigators, social workers, and paralegals.
- A selection process for Board members that follows The ABA Ten Principles of Public Defense Delivery Systems.
- A procedure to expeditiously fill openings on the board.
- An expectation that the Board will emphasize and strive for a staff that reflects diversity and the client community.
- A description of the relationship between KCOD and other indigent defense administrators and service providers

Leadership

This assessment seeks to critically evaluate the leadership of KCOD, with a specific focus on the issues of supervision and oversight. Leadership plays a pivotal role in guiding an organization toward its goals and ensuring the well-being of its employees. However, it has become evident that there are significant shortcomings in supervision and oversight at KCOD, which negatively impact the organization's effectiveness, accountability, and overall success.

Those employees of KCOD interviewed describe leadership at the senior levels of KCOD as not having an active presence that reflects being dedicated to the organization's mission and goals. There is a lack of structured leadership development programs and succession planning. There are communication gaps between leadership and staff.

The lack of supervision and oversight identified within the organization's leadership is a critical issue that requires immediate attention. Addressing these shortcomings will not only improve the overall effectiveness and accountability of the organization but will also contribute to a healthier work environment, increased employee satisfaction, and enhanced stakeholder trust.

Role Definitions and Reporting Structure

One of the primary issues identified is the absence of clear reporting structures within the organization. The Chief Public Defender does not meet regularly with the leadership team as a team or as individuals. The leadership team includes the Deputy Public Defender, an office manager, a supervisor of the mitigation team, and a District Court supervisor for attorneys. There is no Circuit Court supervisor. Many of the District Court attorneys bypass their supervisor and go directly to the Deputy. This leaves the Deputy Public Defender acting as a supervisor, coverage attorney, and training director, in addition to carrying a caseload on top of her job duties.

A Chief Public Defender should have the following responsibilities:

- Invite and listen to staff concerns and resolve them in a collaborative way, so that staff feel that their voices are heard and are part of solutions.
- Give regular, individual feedback to the Deputy Public Defender, District Court Supervisor, Office Manager and Chief of the Mitigation Division so that they too can continue their professional development.
- Meet regularly with the leadership team as a team.
- Outline what tasks the Deputy Public Defender is expected to supervise.
- Collaborate with a Human Resources professional to write an employee policy and procedure handbook and to provide for onboarding so that all employees are aware of expectations.
- Make regular and transparent communication with staff, such as through newsletters, office-wide emails or in-person meetings.
- Make the reporting structure of the office clear, while allowing staff to speak to a different supervisor or Human Resources about any issues with their director supervisor.

The Deputy Public Defender should have the following responsibilities:

- Assist the Chief Public Defender in supporting the mission statement of the office.
- Assist in making and implementing office policies and procedures.
- Assist the Chief Public Defender to resolve conflicts.
- Manage supervisors and provide the team with feedback.
- Working with the Human Resources Professional to put together a standard onboarding program for all new hires.
- Assist supervisors with in-house training.
- Assist supervisors with a mentoring program.
- Assist the supervision teams with coverage when needed.

A District Court Supervisor should have the following responsibilities:

- Be a steady and reliable source of information for those attorneys they supervise.
- Be available to cover for attorneys who are unavailable due to vacation or illness.
- Provide regular, constructive feedback to attorneys to provide for their professional development.
- Take an active role in seeking opportunities for feedback, not just waiting for attorneys to come to them if and when they need help.
- Seek out and recommend training opportunities for their staff.
- Be involved in recruitment efforts for the office and along with the Chief and Deputy Public Defenders should be ensuring there are employee retention plans in place.

Training

A Training Director position which could be responsible for implementing onboarding, continued training, and mentoring, thus allowing the Deputy Public Defender to focus on their managerial duties. Attorneys currently receive annual training (through the local bar association) as required

by MIDC and national standards.¹⁶ Training opportunities for other staff are limited. Without more data on the outcomes and impacts of the training program, such as client satisfaction, case outcomes, attorney performance, or system efficiency, it is difficult to assess its effectiveness or identify areas for improvement.

One cause of the lack of supervision may be a lack of leadership training. The skills needed to be an effective public defense leader are not the same skills needed to be an effective trial lawyer. Leadership development for KCOD managerial and director level staff is not prioritized. Continued management and leadership training are needed for leadership as a whole to develop their skills. The organization has not invested adequately in leadership development programs. This has led to supervisors and managers who may lack the necessary skills and knowledge to lead their teams effectively. As a result, employees often feel unsupported and unguided, negatively impacting morale and productivity. MIDC has provided funding for in-house training by investigators and social workers at KCOD; similar funding could be sought for leadership training.

Investigator Supervision

There is no investigator supervisor to determine performance standards, how cases are assigned, or how requests are fulfilled. The five investigators in KCOD report to whoever is available on the leadership team. Investigators often find themselves uncertain about whom they should report to, resulting in confusion, miscommunication, and an overall lack of accountability. This lack of clarity hinders the efficient flow of information and decision-making processes.

In addition, there are no comprehensive mechanisms for monitoring investigator performance. As a result, there is a lack of accountability for meeting individual and team goals. Underperforming employees go unaddressed without proper oversight, while high performers may not receive the recognition they deserve. This is also evident in performance evaluations as, at present, it does not matter how many cases an investigator is assigned to or how many requests they fulfill.

Communication, Collaboration, and Support

Poor supervision and oversight have contributed to a significant breakdown in communication throughout the organization. Critical information is not effectively disseminated, leading to misunderstandings, missed deadlines, and a general sense of disconnection among teams.

Supervisors could expand defense team roles and foster better collaboration among teams. KCOD does not have paralegals, and some interviewees believed adding them to the team would be helpful. Attorneys reported that the recent addition of mitigation specialists to the team has greatly improved their representation. But interviewees also reported that more could be done to build a more comprehensive defense-team approach.

Poor supervision has also reportedly left safety concerns unaddressed. Interviews related an incident in which a social worker was harassed at the Kent County courthouse during a trial. Court security was notified of the incident and responded, but the staff member felt that there was a lack

¹⁶ See MIDC Standards, Standard 1: Education and Training of Defense Counsel. See also Principle 6, NAPD Foundational Principles (“Training and education should be provided on a regular basis at no cost to attendees and all providers should have a dedicated budget allocated for ongoing training and education.”).

of appropriate investigation and resolution by KCOD.

Representation

Leadership could also be more proactive in encouraging diversity, equity, and inclusion of all staff. Interviewees expressed the need to see more racial diversity within KCOD (there were no data available to analyze this issue). Diversity in the legal profession brings many benefits, such as attracting more clients, increasing innovation, improving problem-solving skills, enhancing employee satisfaction, and fostering public trust. By having a diverse team of attorneys and staff, the office can better understand the needs and perspectives of its clients from different backgrounds and experiences. Diversity also enriches the legal culture and promotes professional growth for everyone in the office. Therefore, diversity is a moral duty and a strategic advantage for KCOD. Establishing a strong diversity program will also enhance recruitment and retention of talented staff to work in Kent County.

Recommendations

- Establish Clear Reporting Structures and Hire Supervisors

Leadership must implement clear reporting structures, outlining roles, responsibilities, and reporting lines. This will eliminate ambiguity and foster greater accountability. For investigators, the role of Investigator Supervisor should be created, similar to the supervisor for the social worker team. Social workers at KCOD have a supervisor who reports to the Chief and Deputy Defender, as well as standards for performance, professionalism, and reporting, based on standards from the National Association of Social Workers. While investigators do not have similar national standards, other public defense organizations can provide sample performance guidelines.

Similar to the District Court Supervisor position, the role of Circuit Court Supervisor should be created. This attorney should understand the KCOD program and be an experienced litigator and have managerial experience. Their responsibilities should be similar to those outlined above for the District Court Supervisor. They can carry a small caseload but should be available to advise both new and experienced attorneys.

If more roles are added to the team, or existing teams are expanded, additional supervisors may be needed, such as for paralegals. The proposed organizational chart provided below assumes that the office will continue its recent growth, so that additional managers will be required to assist staff.

- Expand and Evaluate Training and Mentoring Programs

KCOD could benefit from establishing a comprehensive and rigorous training program that aims to ensure its attorneys' and staff's competence and professionalism. It should also conduct regular evaluations of its training program using quantitative and qualitative measures.

KCOD should prioritize leadership development programs to equip supervisors and managers with the skills and knowledge necessary to lead effectively. KCOD would benefit from a standardized onboarding system that outlines the office's mission and highlights professional and ethical standards that align with ABA and MIDC standards.

There should also be a formal mentorship program in the office. This would include training on how to mentor, and communication skills. The mentor role is separate from that of a supervisor in that the mentor is there to answer questions and provide support to a new attorney who might feel uncomfortable approaching a supervisor.

- Implement Performance Monitoring

KCOD must develop robust performance evaluation systems that provide regular feedback to employees. This will help identify areas for improvement and recognize exceptional performance. For investigators, a process for evaluating performance according to clear standards needs to be established and implemented, and a “tier” system for investigators could be implemented to allow advancement and a pay scale structure.

- Improve Communication

KCOD should foster open and transparent communication channels throughout the organization to improve information flow and collaboration. It should create appropriate feedback loops for leadership and staff.

- Establish Safety Protocols

KCOD should establish a dedicated safety oversight committee, including staff and leadership, to address and investigate concerns, ensuring a minimum safety standard is upheld at all levels. Safety protocols should be clearly outlined in the agency’s policies and procedures.

- Expand Diversity, Equity, and Inclusion Efforts

KCOD must reflect the community it serves. Leadership should receive training on how to ensure diversity, equity, and inclusion among KCOD’s staff, and implement policies to do so.

Office Policy and Procedures

Performance evaluation for indigent defense providers is essential to ensuring that clients are being provided quality representation, in compliance with professional standards and constitutional requirements.¹⁷ Evaluations should be based on clear policies.

There is no formal evaluation policy at KCOD. None of the employees (attorneys, investigators, social workers and support staff) receive regular feedback about their work. The office lacks any type of meaningful performance monitoring. There are no policies in place regarding raises, promotions or movement from representing clients with misdemeanor cases to representing clients with felony cases. When leadership was asked about attorney employee evaluations and knowing when someone is ready to represent clients charged with serious felonies, we were told that “we know it when we see it.” While the leadership of KCOD may not feel that formal policies are necessary, the employees of KCOD clearly want and need them.

¹⁷ See, Principle 7, NAPD Foundational Principles (“[S]upervision should determine if sufficient time, thought, and resources are being devoted to a wide variety of defense tasks”); NAPD, *Policy on Active Supervision of the Representation of Clients* (2020), <https://publicdefenders.us/resources/policy-on-active-supervision/>.

Employees reported that there are no written documents covering those topics, despite employees' requests for them. With a lack of clear policies, staff are left without guidance on important office issues. There is no policy regarding coverage when an attorney is requesting time off. There are no policies regarding how paid leave and sick leave is accrued nor how to request time off. There is no handbook on how to use the case management system and new employees have to figure it out for themselves. This lack of office policy has left many employees exasperated.

Leadership said they prefer to have minimal policies and that if that were to change they would need support for new policies from their Board of Directors, which, as described above, is not engaged in office operations.

Formal policies would improve KCOD operations in several ways. First, office policies provide a roadmap for day-to-day operations and ensure compliance with laws and regulations. Second, they give guidance for decision-making and streamline internal processes. Third, they help to bring uniformity to corporate operations, which reduces the risk of unwanted events. Fourth, they help to achieve operational and compliance objectives more efficiently. Finally, they help to build a stronger corporate culture by ensuring that all employees understand how they are supposed to go about their daily routines and the core ethical values and priorities behind those policies and procedures.

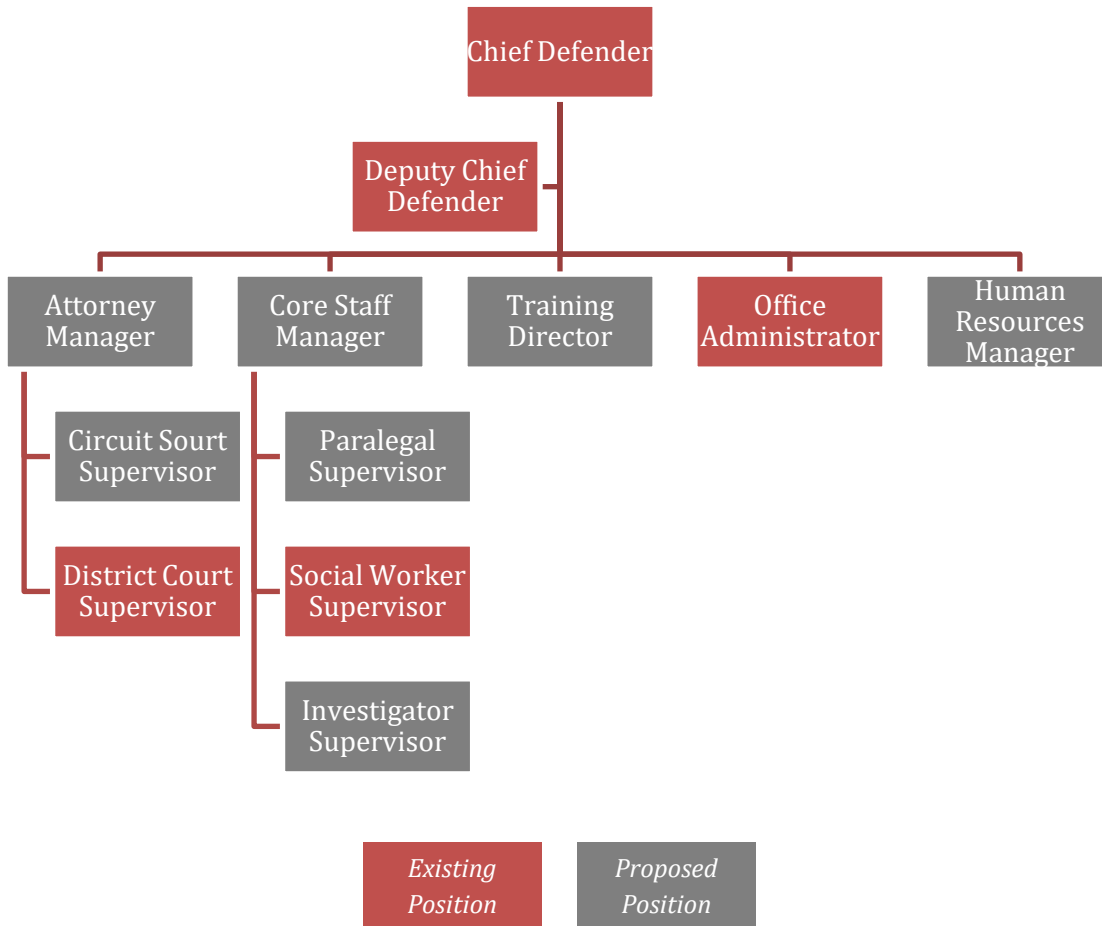
Recommendations

KCOD needs a Human Resources professional to assist with developing written policy and procedures to clearly lay out the expectations and duties of employees and the responsibilities of leadership.

The policy and procedures of the office should be in a standardized onboarding packet and include:

- The office's vision and mission.
- Performance standards that align with both the ABA and MIDC standards.
- A standardized policy for regular employee evaluations.
- A leave policy.
- Job duties for all the positions in the office.
- Safety protocols.
- Diversity, equity, and inclusion policies.

Figure 3: Proposed KCOD Organizational Chart



Roster Attorneys

The assessment team interviewed attorneys on KCIDAO’s roster. The attorneys said that KCIDAO’s appointment process is smooth and that they receive appointments in a timely manner. Many of them also say moving from a flat rate to the new hourly rate will be good for the attorneys. They hope the hourly billing will attract more experienced attorneys to the roster. Some attorneys were concerned about other attorneys “padding” their bills, but for the most part, the switch to hourly billing was viewed as a positive change for both attorneys and clients.

While KCIDAO performs administrative functions well, it provides no quality oversight or training support to attorneys. There is a guidebook that is new for the 2023-2024 fiscal year and it explains KCIDAO’s appointment process, billing and invoicing, conflicts and withdrawals, how to request transcripts, investigators and experts.¹⁸ The guidebook also lays out CLE requirements, instructs attorneys to familiarize themselves with collateral consequences, and has an outline of best

¹⁸ See Appendix 5, Kent County Indigent Defense Administration Office Guidebook for Roster Attorneys.

practices.

But there is no formal training program to address the needs of the roster attorneys assigned to represent the indigent. There is also no monitoring whether attorneys are meeting duties to clients; current KCIDAO staff are tasked with administrative functions rather than quality oversight. Private defender programs have examples of how training and oversight can be provided to private attorneys.

All of the indigent defense administrative programs in Kent County lack the ability to assign specialty counsel, when needed, such as counsel with special expertise in immigration or mental health issues. Roster attorneys can request that administrators connect them to KCOD social workers or provide funding for experts and investigators to assist them with mental health issues and other client needs. Additional training on these specialized areas of practice and working with outside experts could improve quality of representation.

There are no processes in place at any of the administrative programs to determine the effectiveness of the representation provided to the defendant.

Recommendations

- Create an attorney appointment management system shared by all indigent defense administrators.
- Consider leveraging additional funds from MIDC to establish and manage a mental health wheel of private attorneys.
- Establish a clear vision and mission statement for roster attorneys
- Develop a system to monitor and evaluate attorney caseloads.
- Continue to encourage roster attorneys assigned to represent indigent defendants to use the resources available to them such as social workers and/or mental health case managers (along with investigators and requesting expert witnesses) to assist in meeting with eligible clients to determine service needs and early intervention.
- Provide mandatory training for the private attorneys appointed to represent indigent defendants on best practices.
- Provide training on mental health and intellectual and developmental disabilities.
- Require all attorneys to adhere to the guidebook's outline of best practices.
- Hire a quality supervisor to ensure that all attorneys are using best practices and that clients receive zealous representation.
- Establish a client feedback process, allowing a designated person within the KCIDAO program to receive complaints or other feedback about privately assigned attorneys. This process should include a system of detailed documentation of the feedback, as well as written procedures for handling complaints.
- Establish a system within KCIDAO of mentoring and professional casework services (a Padilla/immigration attorney, mental health attorney, social workers, and administrative staff) for use by privately assigned attorneys to assist in providing comprehensive representation to indigent defendants.
- Facilitate a survey of the judiciary about their satisfaction with roster attorneys.

- Facilitate a survey of people who have been represented by roster attorneys, about their satisfaction with their representation.

Culture of Public Defense

Culture is the set of shared values, beliefs, and behaviors that characterize an organization and guide its practices. It is the personality of an organization, and it can have a significant impact on organizational longevity and adaptability; employee engagement, productivity, and retention; and client satisfaction. Culture is influenced by a variety of factors, including the history, mission, and leadership of an organization. It is also shaped by the values and beliefs of the people who work for the organization or in the same field. Culture can extend beyond an organization to a larger system of actors, like the various administrators, service providers, and judges involved in providing indigent defense.

The overall culture of indigent defense in Kent County was reported positively. Attorneys report that Kent County is a collegial place to practice law. Most attorneys felt that their colleagues were advocating on behalf of their clients. Many of those interviewed thought that the MIDC standards helped to raise the level of advocacy on behalf of clients. Still, there were concerns from KCOD attorneys that a few of the roster attorneys didn't treat their clients well and didn't practice in a client-centered or holistic way.

Both attorneys and court staff reported that the courts sometimes bypass the defense to try to save time (although, as is described below, cutting corners on initial proceedings can make case resolution ultimately take longer due to attorney reassignments). The 62A District Court, for example, reportedly frequently begins proceedings without defense counsel present. Courts will set a time limit for defense attorneys to meet with clients before bail hearings and sentencing hearings, and if they have not finished advising their clients in this time, the court will begin the hearings without them. This is reportedly the practice for both public defenders and roster attorneys.

Some service providers also reported some pushback from the bench and court administrators with their advocacy. Interviews with judges and court administrators confirmed this perception. One administrator said that, before the MIDC standards, things "ran smoother and people just pleaded guilty at their first appearance, now they just drag it out." One judge said that while they appreciated the defense counsel's advocacy, they felt that some arguments weren't necessary and that defense counsel shouldn't be filing motions just to make arguments that aren't winnable. These sentiments reflected how zealous indigent defense advocacy is not yet fully accepted in the local court culture.

Having a full-time office dedicated to public defense can help foster a supportive culture. Attorneys working in the KCOD office reported consistently that they liked working in the office environment. The office encourages a holistic and client-centered approach to their representation. Interviewees report that they feel that the KCOD has a group of excellent and passionate attorneys, investigators, and mitigation specialists who care about the mission. Wellness events that the social work division has been sponsoring have been received well by all types of employees, including attorneys, support staff, and social workers, and made employees feel like the office is more committed to their well-being.

On the other hand, a full-time office can entrench a dysfunctional culture and poor morale. There are some tensions in the office with those who don't support a holistic model of representation, and attorneys feel that leadership does not seek to resolve these tensions. In general, KCOD employees reported issues with leadership support and problem-solving. Attorneys have high caseloads which in turn makes it difficult to give the clients the representation they deserve, hurting morale. Attorneys report that when they need help, the Deputy Public Defender has become the catchall and that "she makes the office run"; but this ad hoc support does not make them feel adequately heard or supported. They feel that the office culture suffers due to a lack of organization and leadership. Employee morale is moderate, with engagement appearing moderate to low.

Recommendations

For KCOD and roster attorneys:

- Define values of indigent defense service providers.
- Assess leadership for adherence to office values and fill leadership gaps.
- Encourage multidisciplinary and cross-system collaboration and innovation.
- Recognize successes in delivering quality indigent defense.

Conflicts of Interest

A priority for this assessment was examining how Kent County's various administrators manage conflicts of interests. A conflict of interest arises when an attorney represents two clients whose interests in case strategy conflict, such as for co-defendants who are incentivized to testify against each other. The Michigan Rules of Professional Conduct ban conflicts.¹⁹

Administrators and service providers can use databases to automatically check if assigning a case to an attorney would create a conflict of interest, or they can manually check lists of current case assignments and ask attorneys about who they have represented previously. Kent County's programs do not all have their own conflict-checking procedures, nor procedures for checking for conflicts across the county's various courts and administrators. For example:

- KCOD attorneys reported that there is no official policy for how to identify a conflict or what the process is for reassigning the conflicted cases. There is a cursory conflict check when felony cases are assigned. The case management system used by KCOD is unable to automatically check for conflicts. Checking for conflicts must be done manually.
- KCIDAO tracks current and past appointments on a spreadsheet. There is not an attorney appointment management system for checking conflicts. Discovery (evidence from law enforcement that could potentially reveal conflicts) isn't typically provided until after an attorney is appointed, and a few days prior to the Probable Cause Conference.
- Indigent defense administrators reported their concerns about being unable to check for conflicts due to their lack of access to the various case management systems used in different courts.
- The District Courts reportedly do not allow time for conflict checks before attorneys are

¹⁹ See Rule 1.7, 1.9.

assigned, due to a desire to expedite hearings.

As a result, conflicts occur often. For example:

- Attorneys practicing in District Court reported that they are frequently in the position of having to advise both co-defendants and represent both at arraignment and bail hearings, including when one person decides to take a plea offer (swearing to the truth of a criminal accusation) and the other requests a trial (swearing to the falsity of a related accusation). Attorneys are concerned about violating professional rules of conduct in these situations.
- Judges and court staff reported that conflict checks are insufficient. They recounted an incident when a KCOD attorney was appointed to two cases around the same time: representing someone accused of assaulting a child and representing the child’s mother in an unrelated matter. The attorney was not aware of the conflict.

Once a conflict is identified, there is no clear process for reassignment, though the court accepts *ex parte* motions to withdraw. Reassignment is sometimes made to “conflict counsel” that have their own independent conflict with the defendant’s representation and there does not appear to be any check in place to identify these. Therefore, some defendants may be six weeks or more past their first appearance before they have an attorney assigned with no conflict. The State’s Attorney noted further delays in sending discovery materials to attorneys after reassignments.

Recommendations

Kent County decision makers should consider consolidating the three systems into a single appointment management system for indigent defense administrators. This would help streamline the appointment process, manage multiple cases across the District Courts and Circuit Court, and, most importantly, allow for conflict checks to happen earlier and avoid costly delays to all parties involved.

Alternatively, District Court Judges and staff must allow for sufficient time for administrators and providers to do manual conflict checks before hearings.

Attorney Workloads

Workload Standards

The National Public Defense Workload Study, released in September 2023, made recommendations for how much time should be spent on public defense cases. The study is intended to update 50-year national standards that have been adopted in many jurisdictions, including Michigan.²⁰ The 2023 study found that significant changes in the severity and complexity of criminal cases means that assigned counsel should now handle no more than 59 low-level felonies or 150 low-level misdemeanors per year, assuming 2,080 casework hours available per year.

Kent County should conduct a comprehensive caseload analysis based on the national study and should implement ongoing caseload controls. To provide a snapshot of local caseloads, NAPD did a simplified analysis, using data provided by KCOD, the 61st District Court, and KCIDAO. NAPD did not

²⁰ MIDC Standards, Standard 6: Indigent Defense Workloads.

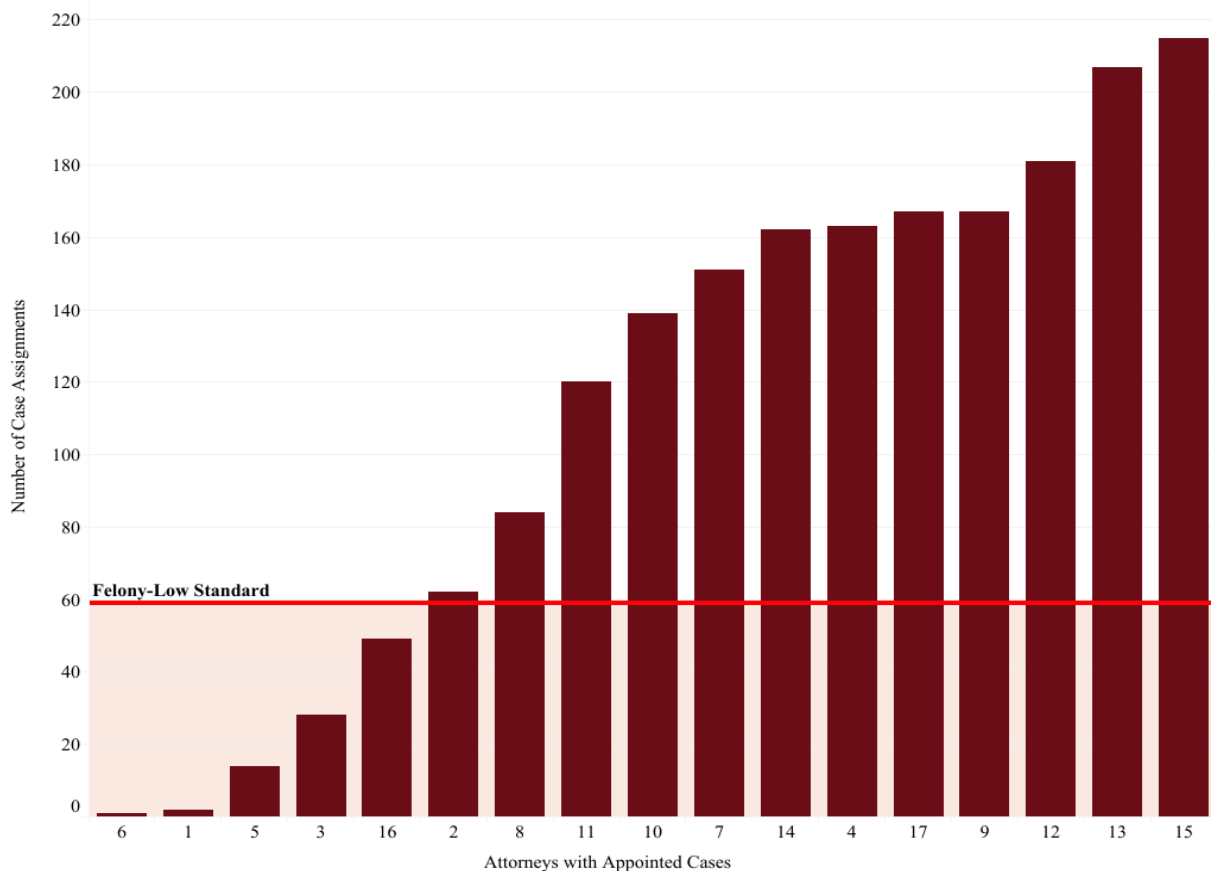
independently verify reported caseload totals. Because none of these reports use the more detailed case categories in the national workload study, to make the most conservative estimates, the assessment team referred to the study’s recommendations for the lowest level (and thus least time-intensive) misdemeanors and felonies. NAPD’s analysis uses the national study’s extremely conservative assumption that attorneys have 2,080 casework hours per year, or 40 hours per week for 52 weeks (therefore not accounting for holidays, time off, administrative tasks, etc.). In reality, local caseloads are almost certainly more excessive than NAPD’s analysis reveals, since attorneys likely have more complex cases and fewer casework hours.

Public Defenders

NAPD analyzed caseloads of KCOD attorneys in Kent County’s courts. The figures below include only those attorneys who NAPD could confirm worked for the whole year.

In 2022, twelve of seventeen KCOD attorneys who had felony cases in the 17th Circuit Court exceeded the national study’s limit of 59 low-level felonies per year.

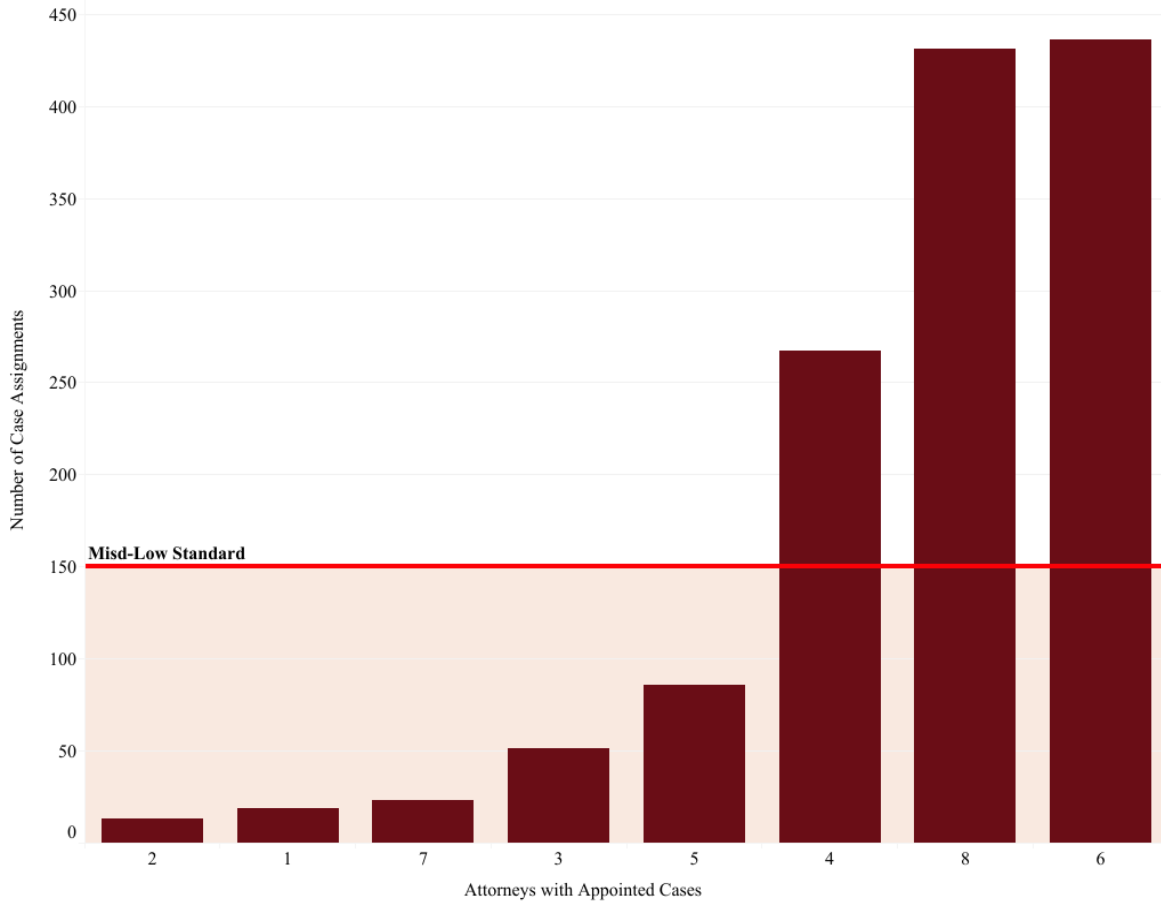
Figure 4: KCOD Attorney Caseloads in the 17th Circuit Court (FY 2022)



Note: Labels 1-17 are randomized attorney identifiers, not counts.

In 2023, three of eight KCOD attorneys who had misdemeanors in the “collaborative” district courts had caseloads above the national study’s limit of 150 low-level misdemeanors per year.

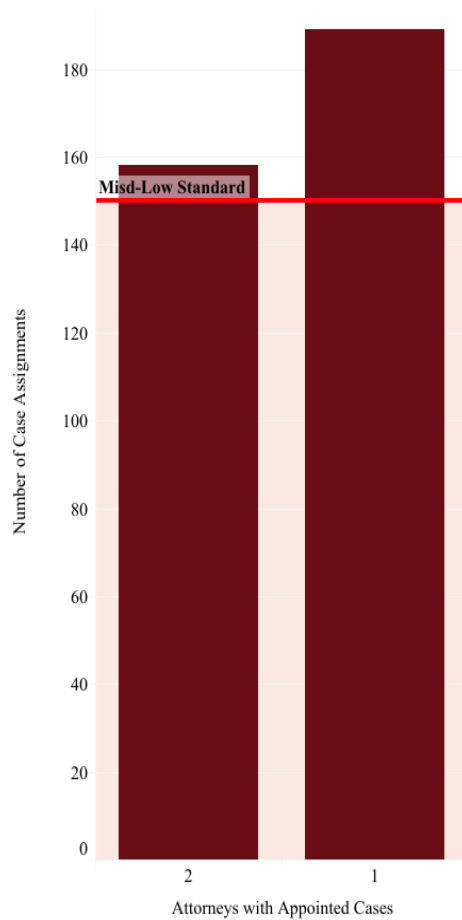
Figure 5: KCOD Attorney Caseloads in the 59th, 62A, and 62B District Courts (FY 2023)



Note: Labels 1-8 are randomized attorney identifiers, not counts.

In 2023, two KCOD attorneys who had misdemeanors in the 63rd District Court both had caseloads above the national study’s limit of 150 low-level misdemeanors per year.

Figure 6: KCOD Attorney Caseloads in the 63rd District Court (FY 2022)



Note: Labels 1 and 2 are randomized attorney identifiers, not counts.

Roster Attorneys

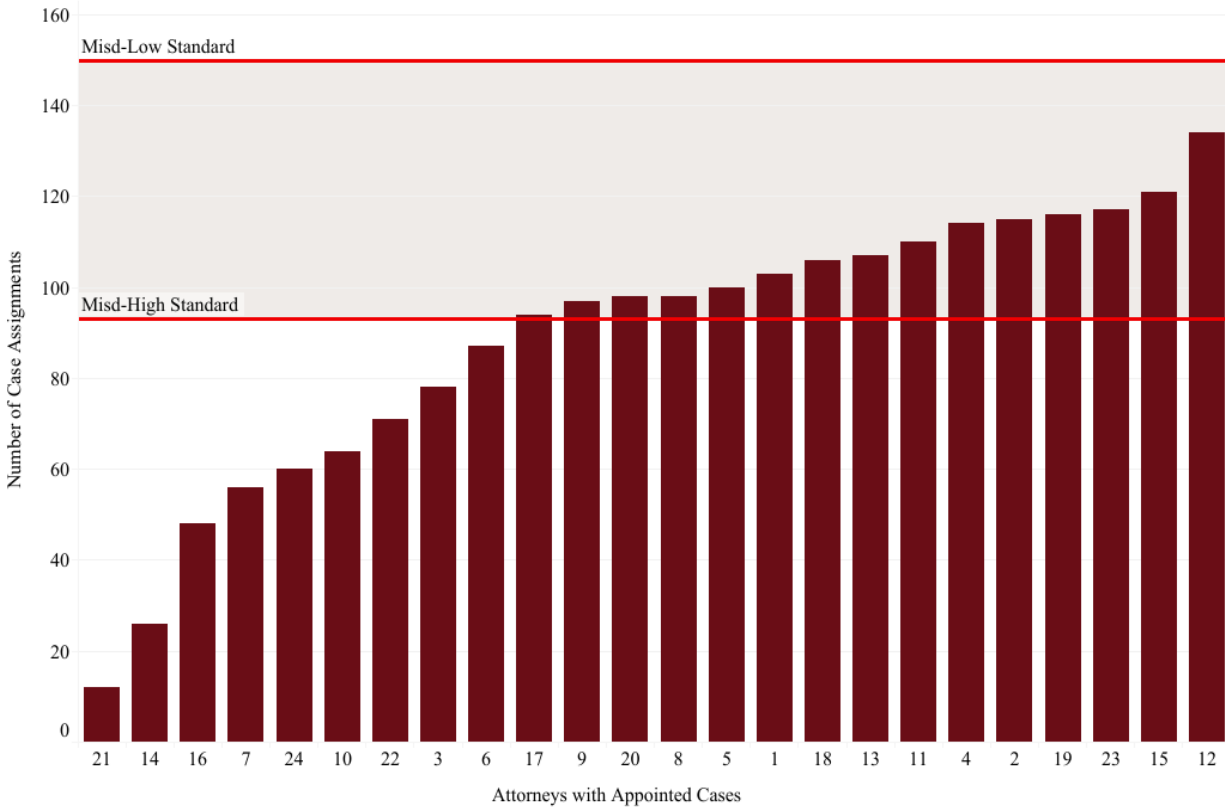
Of the Kent County indigent defense administrators, the 61st District Court provided the most detailed annual caseload reports for roster attorneys, so NAPD’s analysis focuses on that court.

In fiscal year 2023, none of the 24 roster attorneys who had misdemeanors in the 61st District Court had caseloads above the national study’s limit of 150 low-level misdemeanors per year. However, as noted above, attorneys likely had some high-level misdemeanors as well; 15 of the 24 roster attorneys had caseloads that exceeded the national study’s limit of 93 high-level misdemeanors.

In addition, unlike public defenders, roster attorneys’ indigent defense caseloads do not necessarily reflect their entire caseload. They are likely to have indigent defense cases in other courts or counties, or to have non-indigent-defense cases, meaning that they likely have fewer than the assumed 2,048 annual casework hours available solely for indigent defense in the 61st District

Court. If they spend, for example, only half their time on indigent defense in the 61st District Court, the caseload standards should be half as high (75 low-level misdemeanors per year, for example).

Figure 7: Roster Attorney Caseloads in the 61st District Court (FY 2023)



Note: Labels 1-24 are randomized attorney identifiers, not counts.

Mitigation Specialists, Investigators, and Experts

Mitigation Specialists

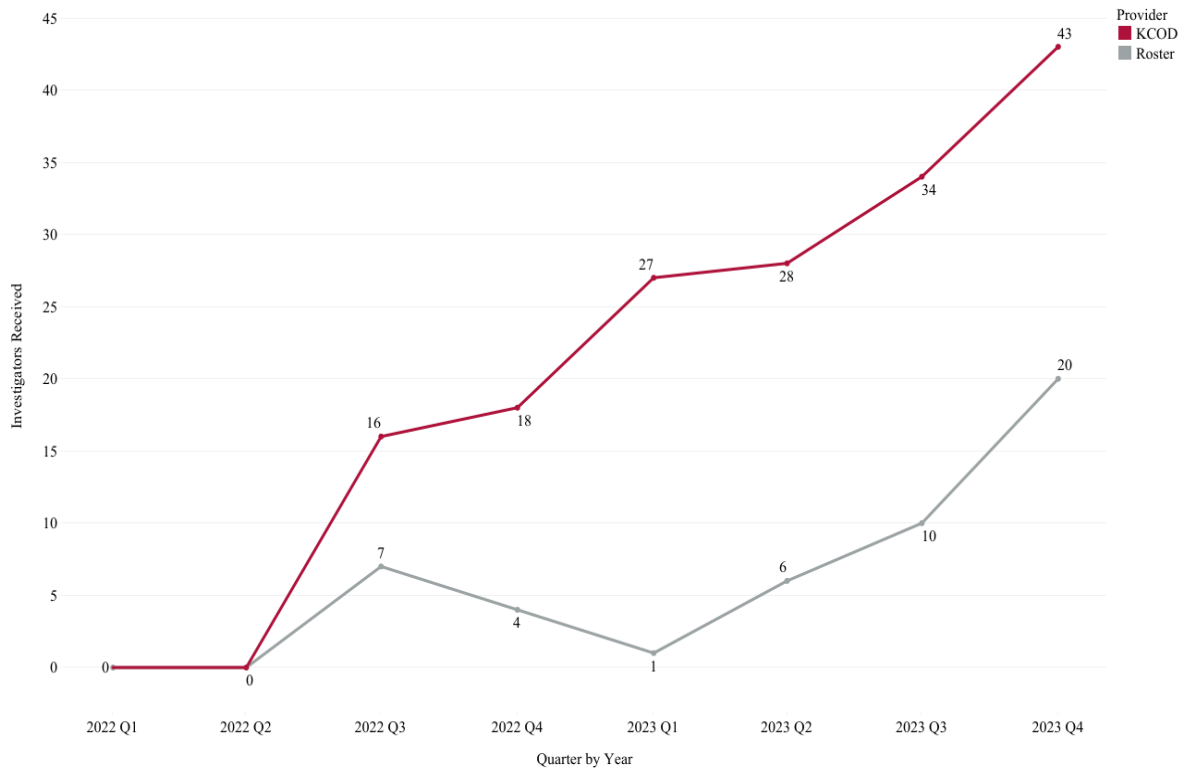
The Mitigation specialists of the Kent County Office of the Defender started taking referrals in February of 2022. There are five mitigation specialists on staff with KCOD. These mitigation specialists support not only the attorneys of KCOD but also roster attorneys that request their assistance. The Mitigation Division has published its own report for 2022-2023, which details the number of clients served and the type of services/referrals they received, as well as the number of attorneys requesting services.²¹ They report working with 37 attorneys and serving 250 clients. The mitigation team also wrote 75 reports that were able to assist both attorneys with negotiations and judges when considering sentencing.

²¹ See Appendix 6, Kent County Office of the Defender Holistic Defense Yearly Report (2022/2023).

Investigators

The funding of investigators transitioned from the courts to KCIDAO during fiscal year 2021-2022. Roster attorneys can request an investigator from KCIDAO or from KCOD. There are now five investigators that are employed by KCOD. KCIDAO receives a quarterly report from KCOD on the number of investigator requests received and investigators assigned, which KCIDAO reports to MIDC. These data show that use of investigators has increased over the past year but remains rare compared to overall case volume.

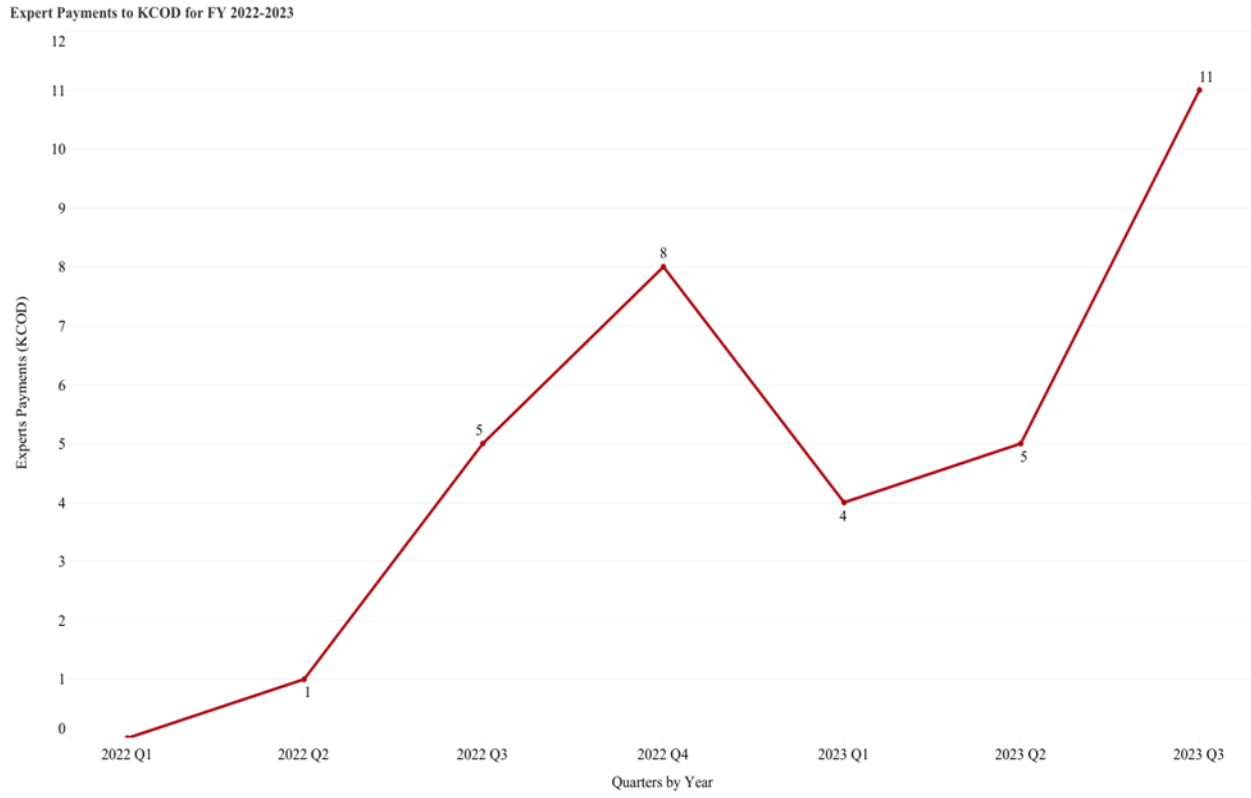
Figure 8: Investigator Requests by Service Provider (FY 2022-2023)



Experts

The funding of experts also transitioned from the courts to KCIDAO during fiscal year 2021-2022. KCIDAO reports to MIDC on payments made for experts, not the number of experts used. These numbers include both KCOD attorneys and roster attorneys. These data show that experts are almost never used. KCIDAO noted that most payments were for juvenile resentencing hearings pursuant to the *Miller v. Alabama* decision, not for standard cases.

Figure 9: Expert Payments (FY 2022-2023)

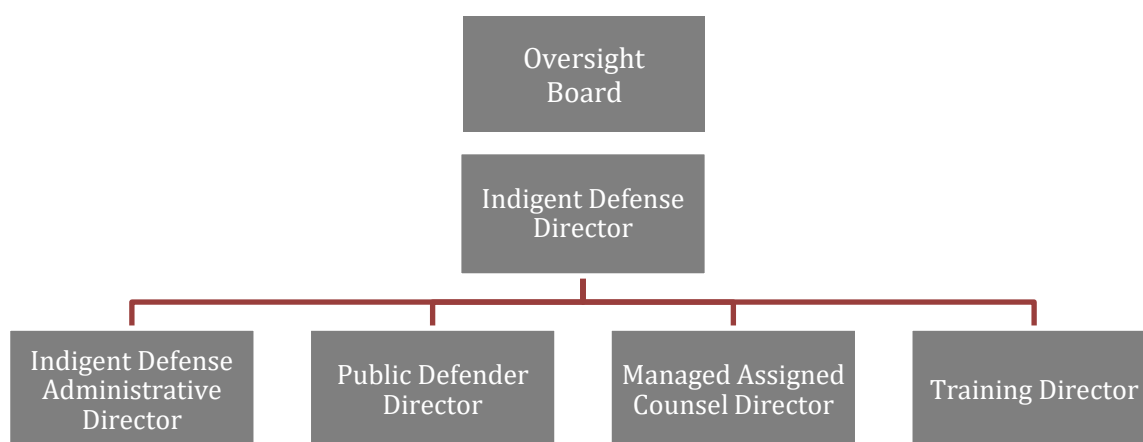


Restructuring the Indigent Defense System

There are changes that can be made within Kent County's current system of indigent defense administrators and service providers, which have been described in the Findings and Recommendations above. Ultimately, however, Kent County should create a unified system for providing indigent defense across its courts, especially to prevent conflicts of interest and to increase operational efficiency.

NAPD recommends that KCIDAO handle all public defense administration in the county, so that the City of Grand Rapids and the three district courts are no longer involved in managing attorney contracts or appointments. It also recommends that Kent County create a county-run public defender and managed assigned counsel programs that are part of KCIDAO, but are overseen by an independent oversight board.

Figure 10: Proposed Kent County Indigent Defense Structure



Unified public defense systems have the following benefits:

- Better parity with the Prosecuting Attorney's office
- Reduced administrative, facilities, and equipment costs, such as reduced costs of software for both programs by bargaining at a large group rate
- Unified institutional voice for stronger and more consistent internal and external communications
- More comprehensive data collection and analysis
- Shared philosophy
- Shared experience
- Focused management and leadership of defense services
- More collaboration between private attorneys and public defenders
- More dynamic adjustments to the balance between caseloads of the public defender's office and managed roster attorneys.
- Training and development of roster attorneys r as potential recruits for public defender vacancies

- Single entity for receiving complaints and concerns
- Shared databases, motions banks, and other sample materials
- Clearer and faster appointment and conflict-checking processes

Transitioning to a unified system would require a careful planning process, outlined below.

Establish a Unified Oversight Board

The first step to improving the system is to create a new county-level oversight Board that will (1) govern the distribution of funding for indigent defense (2) hire indigent defense leadership, including the Chief Public Defender and/or Chief of any new Managed Assigned Counsel system and (3) develop standards and audit against those standards on an ongoing basis. This Board will preserve independence for the defense function and insulate the practitioners from the rest of the county executive.

The composition of the Board should include representatives from county government, county officials and members of the local bar.²² Some board members should have indigent defense experience. While the input of all criminal justice partners is critical to improving the county's public defense system, it is essential that the board does not include members of the judiciary that hear criminal cases, law enforcement, or prosecutors. This board must be independent of the judiciary to comply with the MIDC Standard 5 on independence.²³ The board should also reserve a seat for a representative of directly impacted individuals or a former client, representatives from mental health and social services, and other entities that intersect with the criminal defense system in the county.

The board should meet at minimum quarterly, with established Board positions such as chair, vice-chair, and secretary. Transparency should be key to this body, and meeting minutes should be voted on at each meeting and posted in an accessible place. Meetings should be available to the public and consideration given to how input from the public and the Bar can be incorporated on an ongoing basis. The Board can examine models from other state and county indigent defense systems for guidance.

Once an oversight board is established, it should adopt bylaws sufficient for Michigan law and with necessary protections and oversight for indigent defense programs. Initial appointees should be onboarded with the expectation that a great deal of work is to be done. The Board will need to make certain structural decisions in order to create a unified delivery system.

Centralize Funding

The first order of business for the new board will be to centralize MIDC and local indigent defense funding through the board. Centralizing this function will create transparency into the funding process for any approved public defender office or managed assigned counsel system, compared to

²² NAPD, *Qualifications of those Selecting Public Defense Leadership* (2017), <https://publicdefenders.us/app/uploads/2023/10/Selection-of-Public-Defense-System-Leadership-Position-Paper.pdf>.

²³ MIDC Standards, Standard 5: Independence from the Judiciary.

the current system of multiple contracts and rosters.. The board will be able to advocate for resources for all service providers. The centralization of funding through this board will also insulate the defense function from the everyday business of county government.

Determine Indigent Defense Delivery Structure

This report has illuminated certain deficiencies in the current system. The board should determine if the current contracts with KCOD and existing rosters of attorneys should be revisited. Creating a county-run public defender office and managed assigned counsel program would be the most straightforward way for the county to implement many of the recommendations in this report. Centralizing the standards and approval process through the oversight board will ensure that every entity representing indigent defendants will be held to the same standards.

Public Defender Office

Public defender offices (PDO) have a number of benefits compared to rosters of private attorneys, such as economies of scale in the hiring, training, and employment of indigent defense counsel; more oversight; better communication and informal mentoring, and more pooled resources that save attorneys time and allow them to do their jobs better.²⁴ A PDO also facilitates early appointment of counsel and provides an institutional partner that can make an attorney available on an emergency basis. PDOs also provide predictability of funding in a way that hourly vouchers cannot. Further, a PDO is attractive to young lawyers graduating from law school as a way to receive training and supervision as they grow in the practice of law.

A governmental public defender office has additional benefits compared to non-profits, such as greater transparency for the public into public defense operations; more job security for office staff; and institutional footing more on par with prosecutors.

It is crucial, however, to maintain a governmental public defender office's independence. First, both KCOD staff and Kent County officials feared that, as county employees, public defenders could not be appropriately adversarial with other county employees. These concerns were primarily based on an alleged incident in another county, in which a public defender was said to have challenged a Sheriff's Deputy during a hearing and been reprimanded by the county's human resources department. NAPD investigated this matter and found that it did not happen; the public defender had criticized the prosecutor's office on social media and addressed the issue with their supervisor, with no involvement by the county's human resources department.

KCOD staff also noted that working for a private non-profit has helped their credibility with clients, because the office appears to not be working "in the system" prosecuting them. Employees of a county-run public defender office may need to make additional efforts to earn clients' trust, such as taking more time in meetings to explain their role and having office space distinct from the courthouse.

Most crucial for maintaining any public defender office's independence is having an independent

²⁴ See Texas Indigent Defense Commission, *Public Defender Primer* (2020), <https://tidc.texas.gov/media/8d87ba4dc5f2348/public-defender-primer.pdf>.

oversight board, like the one recommended above, that may only remove the chief defender for good cause.

Managed Assigned Counsel Program

Kent County should establish a managed assigned counsel program (MAC), in which an independent director and small staff oversee the quality of private assigned counsel; connect them with training, mentoring, case support, and other resources; and review and approve their vouchers.²⁵

Case Distribution

The board should determine what portion of cases is handled by the public defender and which is handled by the managed assigned counsel program. In some jurisdictions, public defenders handle all cases except for conflicts, which are handled by private assigned counsel. In other jurisdictions, public defenders focus on certain case types or populations.

Case Types and Special Populations

As the board determines the different types of delivery systems, it examines all of the different case types where a right to counsel exists, from misdemeanor and felony cases, through family representation and juvenile cases, to find opportunities for resource sharing.

The Board should also support the public defender and MAC director in establishing specialized defenders for special populations. For example, mental health defenders are often able to become a trusted partner in the criminal justice system and take on cases that might otherwise not receive the time, attention and care required to help mentally ill defendants get out of the cycle of incarceration. Mental health defenders can also help create or staff mental health dockets, and liaison with the mental health services available in the county. This same consideration could be contemplated for juveniles, immigrants and other special populations.

Evaluation Process

In order to fully evaluate which model is best for the county, it may be useful to create financial models and quality of service models based on existing caseload data and projected expenses. This is the method employed in other jurisdictions where staff salaries, benefits, and other operating costs are included in a proposed budget. These projections assist county officials in determining which structure makes the most financial sense while still meeting minimum constitutional standards. In addition to financial and quality of service projections, it is important to solicit input from members of the public and current criminal justice stakeholders.

Establish a Conflict System

After the board determines the primary system for delivery of public defense, the Board must also determine the best system by which to deliver conflict representation. The board should establish

²⁵ See Texas Indigent Defense Commission, *Primer on Managed Assigned Counsel Programs* (2017), <https://tidc.texas.gov/media/8d87ba4edab9eb1/managed-assigned-counsel-primer.pdf>

an entity to help facilitate county-wide conflict checks, mostly likely within KCIDAO.

The board must define conflicts to align with Michigan professional rules of conduct, outline the circumstances that may trigger a conflict, when that conflict may be waived, and dictate how counsel shall be appointed in the instance of a non-waivable conflict. In line with MIDC Standards, the funding for conflict counsel “shall not be deducted from the line item or contract negotiated with the primary providers.”²⁶

Hire Public Defense Leadership

After the board makes the critical structure decisions and realigns funding and conflicts to be centralized, leadership should be hired to help build the new systems.

If the county creates a county-run public defender office, it will hire a chief public defender. The board should develop a hiring process and interview questions that will evaluate whether applications can perform the core duties of a Chief of the Public Defender’s office, including the Chief being responsible for managing the program, insisting on quality, hiring, training, firing, assigning out the cases, setting policy, and being the fiscal steward.

Thought must be given to who is on the committee that chooses the chief PD. It should not include sitting judges, law enforcement or corrections all of whom will work on a daily basis with public defenders, and who will not always agree. Chief defenders do not get to appoint prosecutors or judges or corrections officials and the converse must also be the case. The board is giving a great deal of trust and responsibility to whomever they hire which is why they should have the power to fire for just cause. The position should be determined by education, substantial experience in and out of the courtroom, a license to practice law in Michigan, a review of any available ethical findings, ability to lead and coach, commitment to zealously and competently representing the poor and demand that their assistants do the same. Politics should have no place in the decision. Local knowledge should matter, but it should not be the sole consideration.

A successful candidate to be the Chief Defender must understand the difference between attacking arguments and attacking arguers. Sometimes the Chief Defender must disagree with the county administration or chief prosecutor. On the other hand, because the Chief Defender is a co-manager of the county criminal justice system, this requires regular meetings and getting along professionally with the other co-managers. This includes chief judges within the county or, elected head of the prosecutor’s office, the sheriff, the chief of police of the largest city or cities in the county, and the corrections leadership. While disagreements are inevitable, and zealous adversarial courtroom practice is encouraged, the co-managers have goals in common including reducing crime, court security, employee safety, equal justice, clear employment policies, and references and background checks of and for job applicants.

Create Budgeting and Reporting Processes

The Board should require periodic reports on how money is being spent. Just as the county is

²⁶ MIDC Standards, Standard 8: Attorney Compensation.

charged with wisely spending local tax dollars and state and federal grants, the public defender is charged with the same responsibilities plus zealously advocating for indigent clients facing incarceration. The office should ensure effective use of data and technology to enhance the public trust and confidence that funding invested in indigent defense is improving the quality of representation for those who are unable to afford to hire counsel.

Within the first few months of hiring, the Chief Defender should submit a written office plan to the Board that will outline the caseloads for attorneys, projected staffing, and salaries. The Chief should also endeavor to draft an office manual with policies and procedures that align both with MIDC Standards and Kent County policies.²⁷

Develop Standards

Standards are crucial to uniform access to justice. The Board should consider establishing the following subject areas for standards applicable to any public defense structure in the county.

Staffing and Workloads

The Oversight Board should set reasonable workloads for their attorneys and core staff that entities working in the system must follow. This ensures compliance with MIDC standard 6, “Indigent Defense Workloads.”²⁸

In addition to attorney staffing, there should be staffing standards set for core staffing such as paralegals, investigators, social workers, and other critical legal team members. The Board can draw upon best practices and balance budgetary needs to ensure a ratio that creates predictability for budgeting based on the predicted caseloads.²⁹

Minimum Education and Training Standards

It is essential that every entity representing indigent persons holds their attorneys to the minimum training and education standards set out in MIDC Standard 7, “Qualification and Review.” Under this standard subsection (A), basic requirements for representation are set out. Under subsection (B), more stringent qualifications are set to ensure that attorneys are minimally competent to represent the level of case at hand. All public defense entities within the county should be held to these standards and should be audited against this requirement on an ongoing basis. While these are minimal requirements, attorneys and staff should be highly encouraged to participate in advanced training programs.

Attorney Compensation

MIDC Standard 8 requires that “[a]ttorney(s) must have the time, fees, and the resources to

²⁷ See, e.g., Texas Indigent Defense Commission, *Checklist and Timeline to Set Up a Single County Public Defender Office*, <https://www.tidc.texas.gov/media/csyph055/checklist-single-county-pd-set-up-generic-june-2022.pdf>.

²⁸ MIDC Standards, Standard 6: Indigent Defense Workloads.

²⁹ For recommended staffing ratios, see NAPD, *Policy Statement on Public Defense Staffing* (May 2020), <https://publicdefenders.us/resources/policy-statement-on-public-defense-staffing/>.

provide the effective assistance of counsel guaranteed to indigent criminal defendants by the United States and Michigan Constitutions.”³⁰ The Board should evaluate the current compensation package for prosecutors in order to ensure salaries for public defenders and hourly rates for private attorneys are competitive and will attract sufficient quality counsel for a functioning system.

³⁰ MIDC Standards, Standard 8: Attorney Compensation.

Conclusion

NAPD's assessment team found that Kent County has made meaningful progress in improving its delivery of indigent defense services, but has a divided structure for public defense administration that does not have necessary information sharing or quality controls. NAPD also finds that the local nonprofit public defender is lacking effective oversight and leadership.

NAPD recommends that Kent County restructure its indigent defense system to create a county-run public defender office and managed assigned counsel program, overseen by an oversight board. While this transition would be complex, there are a variety of programs around the state of Michigan and around the country that can provide models and guidance. NAPD can provide further consultation as needed.

Appendices

1. Assessment Team Biographies
2. Kent County Request for Proposals for Roster Attorneys
3. Example of Monthly Reconciliation Sheet for Roster Attorneys
4. Kent County Office of the Defender Bylaws and Conflict Policy
5. Kent County Indigent Defense Administration Office Guidebook for Roster Attorneys
6. Kent County Office of the Defender Holistic Defense Yearly Report (2022/2023)

Appendix 1.

Assessment Team Biographies

Jim Bethke

In November 2021, Bethke was appointed as the Director of the newly created Managed Assigned Counsel Office, Bexar County, Texas. He is responsible for all operations including budget, hiring staff, approval of attorneys to be on appointment lists, training, and voucher review and processing. The purpose of the office is to provide needed support to appointed attorneys and apply evidence-based strategies that are client-centered to enhance outcomes.

From 2019 through 2021, he established Harris County Justice Administration Department and directed operations. The Department was designed to work with a broad spectrum of agencies to promote the aims of fairness and equality throughout the criminal justice system. Bethke and his team accomplished this by establishing trust, building consensus, and forming collaborative partnerships with local criminal justice stakeholders including the coordination of quantitative and qualitative data regarding equity and equality within the criminal justice system.

Bethke served as the interim Director of Harris County Pretrial Services from November 2020 through September 2021.

From 2017 through 2019, Bethke served as the Chief Defender / Executive Director for the Lubbock Private Defender Office. He was recruited to help modernize and automate its manual practices and paper processes. While in Lubbock Bethke also served as an Adjunct Professor at Texas Tech University School of Law.

From 2002 through 2017, Bethke served as the Executive Director of the Texas Indigent Defense Commission. He hired and led a team of dedicated professionals charged with implementing a statewide system of standards, financing, reporting, and monitoring the delivery of defense services for a person charged with a crime and too poor to hire an attorney.

He represented the National Legal Aid & Defenders Association on the Global Justice Information Sharing Initiative Advisory Committee (GAC). The GAC advises the nation's highest-ranking law enforcement officer-the United States Attorney General-on information sharing issues.

During the 81st Legislative interim, he served as the presiding officer of the Timothy Cole Advisory Panel on Wrongful Convictions. He was an inaugural Board member for the Indigent Defense Research Association, and the Texas Criminal Justice Integrity Unit.

He is a former committee member American Bar Association's (ABA's) Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and past chair of its Indigent Defense Advisory Group. In 2015, as part of an ABA initiative working through the International Criminal Justice Consortium he served as part of a team of legal experts from France, Spain, and the United States charged with conducting an independent review and assessment of the International Criminal Court's legal aid system at the Hague. He serves on the following boards: National Association of Public Defense Fund for Justice; Chairs, Office of Capital and Forensic Writs; and Remember Our Heroes.

He is a recipient of the Daniel H. Benson Public Service Award from Texas Tech University School of Law. He is a past-chair of the Juvenile Law Exam Commission for the Texas Board of Legal Specialization and is a Texas Bar Foundation Life Fellow. He is a U.S. Army veteran from the 101st

Airborne Division, is a graduate of the University of Texas at Tyler and the Texas Tech University School of Law.

Renee Brodsky

Renee is a career Public Defender. Her interests in social justice led her to an internship with the Public Defender's office in law school. She is a graduate of the State University of New York at Albany and the University of Toledo College of Law. Her experiences in law school focused her career goals, leading to work as a trial attorney with the Fulton County Public Defender's office in Atlanta, Georgia. As a felony trial attorney, she handled a variety of cases from fraud, juveniles charged as adults, murder and other charges that carried life without parole sentences. She was responsible for all areas of representation from arraignment through an appeal and post-conviction. In 2001 she attended the National Criminal Defense College.

After spending 12 years in Atlanta, she and her family relocated to Maryland and in 2008 she moved into training public defenders by accepting a position with the Maryland Office of the Public Defender as an Attorney Trainer.

While in Maryland, Renee participated in Gideon's Promise Train the Trainers program to hone her skills as a trainer and to learn more about the Gideon's Promise training program. She is an experienced trainer, and her skills are best demonstrated in group facilitations, presenting in both face-to-face and virtual learning environments, curriculum development, adult education, and experiential learning. She is an effective communicator with colleagues, adversaries, and others regardless of differences in backgrounds and lived experiences. She is passionate about engaging attorneys in learning and in turn nurturing knowledgeable, confident, and skilled attorneys advocating on behalf of clients.

Renee's primary duties and responsibilities as Attorney Trainer for the Maryland Office of the Public Defender (MOPD) included the development and implementation of a curriculum for the New Hire Training Program for Fall and Spring classes. She also co-developed and implemented a 1-day conference semi-annually for new hires. Renee co-created and managed the mentorship program for the entire agency. She successfully mentored and coached new trainers, including creating a training program for mentors and counseling both mentors and mentees throughout their careers with MOPD. She is rewarded to see attorneys she trained become successful public defenders, take on leadership roles in public defender offices, and flourish in their own private practices.

She created new and innovative training materials and programming for attorneys based on analysis of assessments, feedback, and specific requests. Among her many accomplishments, is the broadening MOPD's state-wide Justice for All Annual Conference both in terms of speakers and the number and variety of sessions offered jointly with the Director of Training. The conference has grown tremendously since she began working at MOPD, from 200 to more than 400 attendees yearly and from 4 to a minimum of 8 simultaneous sessions, effectively doubling both attendance and sessions during the last 10 years. She has 15 years of experience collaborating with senior leaders and subject matter experts to ensure training programs align with organizational goals and meet the specific needs of learners. Renee is skilled in analyzing data and feedback to assess the

effectiveness of training programs and recommend improvements, she is always seeking innovative approaches to improve learning efficiency, enhance the learning experience and maximize program impact. She remains a lifelong learner and receptive to new ideas.

Fred T. Friedman

Fred Friedman has been an attorney since 1972, a public defender in Minnesota since February 1, 1973, and a professor since 1975. He was born and raised in Chicago and Fort Wayne, Indiana. His paternal grandfather worked for social reformer, settlement activist and Nobel Laureate, Jane Addams at Chicago's Hull House. His mother's family was closely associated with Chicago author and oral historian, Studs Terkel, who wrote two books that include chapters about Fred's maternal grandparents. Fred moved to Duluth, Minnesota in March of 1964 and graduated from Duluth Denfeld High School in 1965. He attended the University of Minnesota, Duluth from 1965 to 1969 where he graduated magna cum laude and was student body president. He earned his Juris Doctorate at the University of Minnesota Law School where he graduated in 1972. He then returned to Duluth where he practiced as a full-time public defender from 1973 to 1977 and as a part time defender with a private practice specializing in criminal defense and representing professionals in front of licensing boards from 1977 to 1992.

Fred served as the Chief Public Defender of Minnesota's Sixth District (northeastern Minnesota) from the spring of 1986 till April of 2014 and is Minnesota's longest serving chief defender in history. Fred has written many articles on trial skills and public defender leadership. He has taught at schools and seminars for the public and private criminal bar and others in Arizona, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Virginia, Utah, Washington, Washington D.C., West Virginia, and Wisconsin, as well as the U.K., France, Germany, and Singapore.

Fred is the chair of the National Association of Public Defenders (NAPD) Strike Force Committee that upon request advises and assists public defenders who view themselves or their organization in political or legal crisis.

In addition to an attorney and career public defender, Fred is an adjunct associate professor at the University of Minnesota, Duluth where he has taught since 1975. He holds a joint appointment in the Department of Sociology and the School of Medicine. He has been a member of the faculty of the Minnesota Judicial College, and currently the National Public Defender Trial School at the University of Dayton, the University of North Carolina School of Government Trial School, the Penn State School of Law Trial School and for many years taught at the Minnesota Public Defender Trial School at St. Thomas University. He has often been selected as one of Minnesota's Super Lawyers. He has enjoyed an "av" lawyer rating for over 40 years. He has won several outstanding teacher awards and was elected to his alma mater's (Duluth Denfeld High School) Hall of Fame where he continues to volunteer with the debate and speech teams.

His legal awards include being selected as recipient of the 1995 Jack J. Litman Social Justice Award. In 1996 he received the Minnesota Public Attorney of the year. Award. In 2013 he was presented

with the prestigious Minnesota Association of Criminal Defense Lawyers (MACDL) Lifetime Achievement Award. In 2014 he was awarded the prestigious Chief Justice Douglass Amdahl Public Attorney Career Achievement Award and the Duluth Bethel Lifetime Achievement award for Community service. He was also selected in 2014 as one of Minnesota Lawyer's Attorneys of the Year and received their 2014 Outstanding Service to the Profession Award. In 2015 he received the Jack Durfee Distinguished Service Career Public Defender Award. Fred also co-hosts a radio show on Public Radio throughout Northern Minnesota alternately entitled "Fool Fred" or "The Sports Page".

Fred currently or in the past has served on the Boards of the Clayton, Jackson, McGhie Memorial, Boys and Girls Club Scholarship Committee, the UMD Baeumler-Kaplan Committee, the Duluth Superior Community Foundation Board, the Duluth Life House, Woodland Hills, the Duluth Police Foundation, and Northeaster Minnesota Legal Aid. He also has served as a court referee hearing conciliation court cases from 1984-86 and 2015 through 2023. Fred is a member Minnesota Conviction Review Unit established by Minnesota Attorney General, Keith Ellison. He is licensed to practice in all Minnesota State Courts, the United District of Minnesota Federal Court, the United States Eighth Circuit Court of Appeals and the Supreme Court of the United States.

Corey Dewayne Smith

Corey Dewayne Smith is a United States Army JAG Corps veteran who has transitioned into criminal defense social work and leadership training. He is passionate about developing others and volunteers with several organizations that provide support and resources to leaders. As a nationally recognized speaker on leadership, multidisciplinary team building, and professional development, he is committed to helping leaders and their teams overcome challenges and achieve their goals.

Kasandra Washington

Kasandra Washington has devoted nearly a decade to the field of public defense. Since earning her degree from the University of Louisiana at Lafayette in 2013, she embarked on her career by joining the 15th Judicial Public Defenders Office as a Data Entry Clerk. Progressing through various roles, Kasandra later served as a client advocate at the Orleans Public Defenders Office in 2017 and assumed the position of Mitigation Specialist/Investigator at the East Baton Rouge Public Defenders Office in 2019.

Under the guidance of Michael Mitchell and Lindsey Blouin, Kasandra played a crucial role in producing mitigation and investigation work for cases involving juveniles charged as adults. Notably, she obtained licensure as a private investigator during this period. In October 2021, Kasandra returned to the 15th Judicial Public Defenders Office, this time as the Chief Investigator. Demonstrating her commitment to the field, in March 2023, she established her private practice, FFO Investigation, specializing in mitigation and investigation work for a spectrum of cases, from capital cases to felonies.

Kasandra's core belief is that all clients deserve exceptional representation. As a public defender, she advocates for viewing clients as human beings rather than mere docket numbers, emphasizing the importance of ensuring quality representation for everyone.

Appendix 2.

Kent County Request for Proposals for Roster Attorneys



SOLICITATION

Solicitation Type	Request for Proposal (RFP)
Solicitation Number	5356
Description	Attorney Services Indigent Criminal Defense - Felonies and Misdemeanors
Date of Issuance	8/22/2023
Inquiries Deadline Date & Time (local)	9/15/2023, 2 PM
Due Date & Time (local)	9/19/2023, 2 PM
Buyer Name	Underhill

INTRODUCTION

The Kent County Purchasing Division is soliciting proposals for attorney services for indigent criminal defense attorney services for defendants charged with felony and misdemeanor counts for October 1, 2023 through September 30, 2024. This RFP is **not** for Family Division cases; that request will be issued separately.

Criminal Cases

The County intends to establish contract prices for defense services and contract with attorneys who agree to accept representation of indigent defendants in criminal cases at the contract rates. Contracts will be between the County and individual attorneys. Contracts will cover new felony and misdemeanor cases, with allowances for probation violation hearings, FOC show cause hearings, lineups, fugitive hearings, investigative subpoena hearings, PPO violation hearings, and show cause hearings. Attorneys may separately request appointment to represent those charged with murder and/or those charged with crimes that carry a potential life sentence.

By signing up to accept felony cases, attorneys also agree to handle misdemeanor or probation violation cases where the attorney represents the defendant currently or the misdemeanor relates to the felony charge. Attorneys can elect separately to handle sporadic conflict misdemeanor or probation violation cases at 63rd District Court when the Kent County Office of the Defender has a conflict.

Attorneys interested in accepting appointments for cases under this arrangement must agree to accept randomly drawn cases as assigned by the County’s Indigent Defense Administrator. The County has established hourly rates per type of case. There is no cap to the number of hours that may be billed per case. The pay scale is as follows:

- Misdemeanors, PPO violation, and show cause hearings: \$130 per hour;

- Non-capital felonies, high crime misdemeanors, and probation violations: \$150 per hour;
- Capital felonies and investigative subpoena hearings: \$180 per hour.

Attorneys will be required to bill in quarter-hour increments for their work on cases. Invoices must be submitted via the County-supplied mechanism on a **monthly basis**. Failure to submit monthly invoices when case activity has occurred may lead to suspension of further appointments and termination of the contract.

Attorneys will be required to submit monthly reports certifying their compliance with other Indigent Defense standards, including, but not limited to, initial interviews with defendants. By submitting a response to this RFP, attorneys agree to use all available technology to comply with MIDC standards (including but not limited to the ICS jail visitation system). The County reserves the right to dictate the format and manner of submission of the required reporting, including the preclusion of handwritten documents.

The County will award no contracts for fewer than 10 felony cases, unless the attorney indicates a desire to handle only 63rd District Court conflict misdemeanor / probation violation cases. Contracts will be awarded to single attorney contractors only. The County has no objections to those attorneys awarded contracts associating after the contracts are awarded for purposes of covering the appointed cases. However, the individual attorneys will be held responsible for cases to which they are appointed and handling compensation for other attorneys related to such cases.

Attorneys must indicate if they will accept homicide/capital cases. While the County will attempt to accommodate the requested case load for those accepted to the appointment list, that is not guaranteed.

No attorney will be placed on this list if they do not indicate through this process that they want to be considered for these appointments. The appointment list for these cases is limited.

Attorneys awarded contracts will be required to show proof of professional liability insurance on themselves, applicable to the services to be rendered, of at least \$1,000,000 each occurrence and aggregate for any and all liability arising through acts of the attorney under the above agreement.

Training Requirements:

Pursuant to MIDC standard 1, all attorneys providing indigent defense services are required to complete 12 credit hours of Continuing Legal Education (CLE) per year. **Included in or in addition to those 12 credit hours** must be 1 hour relating to forensics (e.g. DNA, blood spatter, SANE exams, fingerprinting, ballistics, etc.), 1 hour relating to technology (e.g. cell phone evidence, cybersecurity, effective use of technology in trial, etc.), and 1 hour relating to DEI or ethics. All attorneys on the criminal list will be required to utilize CE Broker to post credits for required training. It is acceptable to complete the 3 specific CLE courses within your 12-hour allotment, but if an attorney is unable to do so, then any of the

additional required credit hours in the specified areas must be completed separately. New attorneys to the list will be required to complete some initial training and orientation, and may, depending on the case type, also be required to develop a relationship with an attorney mentor.

Other Requirements:

Any attorney put on the appointment list will be required to fulfill the following responsibilities.

- Meet and provide documentation of compliance with MIDC standard 2 of meeting with their client within 72 hours of the appointment if that client is in custody. If the attorney is unable to conduct an in-person visit, it is expected that attorneys will make use of the ICS videoconferencing technology. If a client is out of custody, the attorney must list how they attempted contact (e.g., letter, phone call, or email) and verify there was an interview prior to any subsequent court hearing.
- Accept electronic notice of appointment, delivered via e-mail, and acknowledge the appointment within one (1) business day of sending. If no acknowledgement is received within that period, the County may, at its sole discretion, revoke that appointment and appoint a different attorney from the list.
- Comply with billing / invoicing instructions provided by the County. This includes an agreement for the County to pay via electronic funds transfer (EFT).
- Allow publication of their email address for purposes related to indigent defense.
- Provide updated certificates of insurance as they are issued to the attorney during the term of the agreement.
- In the event a given defendant with an active felony case commits a separate misdemeanor that is brought in the 63rd District Court, attorney will agree to accept representation for the misdemeanor at the hourly misdemeanor rate outlined above. This is not a guarantee that such representation will be required, but to aid in efficient administration of justice, the County reserves the right to make such an appointment.
- Execute a contract with the County that embodies the County's standard professional services terms and conditions in addition to the terms outlined in this RFP.
- Unlike past years, there will be no set monthly payment to attorneys. Payment for attorney services will be paid solely based on submitted invoices.

RFP Specifications:

Responses to this Request for Proposal must include the following information:

- Indigent Defense Services Preference Sheet including:
 - The name of individual attorney to be assigned cases
 - A statement indicating willingness to accept homicide or potential life-sentence cases.
 - The number of cases interested in accepting from October 1, 2023 through September 30, 2024 (criminal only). The minimum number of cases to be put on the roster is 10.
 - A brief statement of how cases will be covered in case of illness or other absence.
- Resume of participating attorney
- List detailing:

- Number and type of trials completed to verdict in last 5 years
- A copy of current proof of liability insurance

All responses to this proposal will be evaluated by the Indigent Defense Administrator. Preference may be given to attorneys who currently provide criminal defense services to indigent defendants. The County in no way warrants or guarantees that the attorney will be appointed to the number of cases requested, as the number of cases requiring appointments is outside the County's control. There may be more or fewer appointments made during the contract term.

The Indigent Defense Administrator has the sole right to determine if a contract will be issued to any attorney responding to this RFP.

REQUEST FOR PROPOSAL SUBMISSION

Complete submissions must be received in the Kent County Purchasing Division on or before the due date/time specified by the designated clock (local time). Late, faxed, or emailed submissions will NOT be considered.

Submissions may be submitted electronically on the Bid Opportunities page of the Kent County Purchasing Division's website.

- The **Indigent Defense Services Preference Sheet** (below) and required supporting documents must be combined into one PDF document and submitted online.

The time required to upload a submission may vary. Respondent assumes all risks associated with electronic submission, including technological difficulties, and deems the County and its service provider harmless and without fault. Successful electronic submissions are confirmed via Respondent's email. Respondent shall view the link in the confirmation email to determine accuracy prior to due date/time.

Submissions may only be withdrawn by written request if the request is received before the due date/time. Withdrawals after opening shall be subject to [Kent County Fiscal Policy – Centralized Purchasing 5\(i\)\(2\)](#).

NO BID

Please provide [feedback](#) if you are electing not to participate in this Solicitation.

**INDIGENT DEFENSE SERVICES
PREFERENCE SHEET**

Attorney Name: _____

Attorney P Number: _____

Appointments Requested - Felony

Number of Cases Requested 40+ cases 30 cases 20 cases 10 cases

Felony Appointments

Life Sentence Felony Appointments

Homicide Appointments (these cases will not be included in the above requested number)

APPOINTMENTS REQUESTED – MISDEMEANOR / PROBATION VIOLATION

63rd District Court cases when the Kent County Office of the Defender has a conflict (these do not count against the Felony cases requested).

Required Proposal Attachments:

- Resume of participating attorney
- List detailing types and quantities of cases tried to verdict (or substantially similar resolutions) within last five (5) years.
- Proof of liability insurance

Appendix 3.

Example of Monthly Reconciliation Sheet for Roster Attorneys

MAY 2024 RECONCILIATION STATEMENT FOR ATTORNEY FRANK SINATRA

CLIENT NAME	CASE NUMBER	STATUS OF CASE = <u>NEXT</u> HEARING DATE; PLED?; AWAITING SENTENCING	OPEN OR CLOSED = PAST APPELLATE WINDOW	NOTES
JACK BRUCE	23-23239-FH	STATUS HRG	O	WAITING ON PE TRANSCRIPT
	23-23240-FH	STATUS HRG	O	WAITING ON PE TRANSCRIPT
	21-00234-FD	STATUS HRG	O	WAITING ON PE TRANSCRIPT
GINGER BAKER	24-00023-FH	P/G A/C - SENTENCING 6/4	O	
CHRIS CAMPBELL	24-03485-FH	P/G L/C - 180D KCCF F/B 2 YRS SP	C	
JOHN BONHAM	24-00123-FH	FILING MOTION TO WITHDRAW - CONFLICT	O	
	24-00458-FH	FILING MOTION TO WITHDRAW - CONFLICT	O	
JOHN PAUL JONES	23-89533-FC	FINAL PRETRIAL	O	
JEFF LYNNE	23-45928-FH	FTA JAN 2024	FTA	FTA
ROY WOOD	23-45820-FH	JT GUILTY A/C AND L/C	O	PENDING MOTION FOR NEW TRIAL
BESSIE SMITH	24-03481-FD	P/G HYTA	C	
TBONE WALKER	24-05683-FH	ITP 3/24 - COMP REVIEW 6/22	O	
	24-05684-FH	ITP 3/24 - COMP REVIEW 6/22	O	
LESLIE ABRAMSON	23-02835-FC	STATUS HRG	O	
JUDY CLARK	24-00019-FH	NP MAY 2024	C	
SHAWN HOLLEY	22-93548-FC	NG JT ALL COUNTS	C	
CLIFFORD SMITH JR	24FY239	PE	O	HIRING EXPERT WITNESS - DNA AND PATH
CALVIN BROADUS	24FY01239	WAIVED PE - BINDOVER	O	
BELCALIS ALMANZAR	D240349FC	JUST APPOINTED 5/29; PCC	O	
ISIS GASTON	W249828	P/NC MISDE @ PE	O	
DANA VREDEVOOGD	D241239FH	JUST APPOINTED 5/31; PCC	O	
PATRICIA DEVOS	23-34562-PPO	PPO VIOLATION HRG	O	ADJ APRIL VIOLATION HRG
LUANN DELESSEPS	N/A	INVESTIGATIVE SUBPOENA	C	

KEY:	
P/G	PLED GUILTY
A/C	AS CHARGED
L/C	LESSER CHARGES
KCCF	KENT COUNTY JAIL
MDOC	MICH DEPT OF CORRECTIONS
F/B	FOLLOWED BY
FTA	FAILED TO APPEAR
BW	BENCH WARRANT
ITP	INCOMPETENT TO PROCEED
COMP	COMPETENCY
NP	NOLLE PROSEQUI
NG	NOT GUILTY :)
P/NC	PLED NOLO CONTENDERE
MISDE	MISDEMEANOR
JT	JURY TRIAL
NJT	NON-JURY TRIAL
G	GUILTY :(
ADJ	ADJOURNED
HRG	HEARING
SP	SUPERVISED PROBATION

Appendix 4.

Kent County Office of the Defender Bylaws and Conflict Policy

RESTATED BY-LAWS OF
THE KENT COUNTY OFFICE OF THE DEFENDER

ARTICLE I

NAME AND PURPOSE

Section 1. The name of this organization shall be:

KENT COUNTY OFFICE OF THE DEFENDER

Section 2. The purpose of the this organization shall be to secure justice for and protect the rights of the residents of Kent County, Michigan, who are unable to obtain and pay for criminal legal services, by providing legal representation and counsel for such persons and to employ attorneys and other staff personnel and provide them with offices and the necessary equipment to carry out these purposes.

ARTICLE II

MEMBERSHIP

Section 1. Members of the Kent County Office of the Defender shall consist of residents of Kent County who are members in good standing of the Kent County Office of the Defender.

Section 2. Members of the Kent County Office of the Defender in good standing are those members who annually request membership and pay annual dues of an amount determined by the Board of Directors.

Section 3. The Directors shall be elected in the manner hereinafter set forth: The term of office of a director shall be three (3) years, provided the Board of Directors of the organization shall upon the adoption of these Restated By-Laws, adopt a resolution specifying transitional rules applicable to the election of directors next following adoption of these Restated By-Laws which may specify shorter terms for some directors elected at such election and which shall ultimately result in the election of seven (7) directors with staggered three (3) year terms.

Section 4. If a vacancy shall occur through the death, removal, or resignation of any director, or for any other reason, such vacancy or vacancies shall be filled until the next annual election by the Board of Directors. At the next annual election, the vacancy or vacancies shall be filled by regular election in the manner specified herein for the balance of the term.

Section 5. No employee of the organization shall be a member of the Board of Directors.

Section 6. Any member of the Board of Directors may be removed from the Board by a $\frac{3}{4}$ majority of those present and voting at any regular or special meeting. Grounds for removal shall exist if a member of the Board of Directors has missed three (3) consecutive regular meetings and the President of the Board has recommended his removal following written notice to said member.

ARTICLE III

OFFICERS

Section 1. The Board of Directors shall elect a slate of officers each year following the annual election of the Directors. Officers shall serve for a term of one (1) year or until their successors are elected. The Officers shall be members of the Board of Directors and there shall be a President, two (2) Vice-Presidents, and a Secretary-Treasurer.

Section 2. The two offices of Vice-President shall be equal in rank, but one (1) of the Vice-Presidents shall be a Director who is a member of the State Bar of Michigan and the other shall be a Director who is not a member of the State Bar of Michigan.

Section 3. The Board of Directors may from time to time delegate responsibilities to an Executive Committee which shall consist of the Officers of the organization plus one (1) or more additional directors who shall be appointed by the Board of Directors at the request of the President.

Section 4. The Officers shall have the duties and powers customarily accorded their respective offices as modified from time to time by action of the Board of Directors. In the event of the absence or incapacity of the

President, the Vice-President with the longest tenure on the Board of Directors shall succeed to the office of the President until the Board shall elect a new President from among its members to fill the unexpired term.

ARTICLE IV

COMMITTEES

Section 1. With the exception of the Executive Committee described herein, the President shall have the power to appoint members of regular committees of the organization.

Section 2. The Board of Directors or the President may appoint such special committees as it may deem necessary from time to time to assist in carrying out the purpose of the organization.

ARTICLE V

MEETINGS OF THE BOARD OF DIRECTORS

Section 1. The Board of Directors shall hold regular meetings at such times and places as may be determined by the Board. Special meetings shall be held at the call of the President or upon written request of any three (3) or more directors.

Section 2. Four (4) members of the Board of Directors shall constitute a quorum at any regular or special meeting.

ARTICLE VI

MEMBERSHIP MEETING

Section 1. There shall be a regular annual meeting of the members of the organization each year at a time and place determined by the Board of Directors.

Section 2. Special meetings of the members of the organization shall be called by the President at any time and shall be called upon the written request of any three (3) members of the organization if the request specifies the purpose of the meeting.

Section 3. Ten (10) members of the organization shall constitute a quorum at any regular or special meeting of the membership.

ARTICLE VII

NOTICE OF MEETINGS

Section 1. A written notice of regular meetings of the Board of Directors shall be sent to each member of the Board at least three (3) days prior to the meeting. Notices of special meetings shall be given at least two (2) days prior to the meeting, and the purpose of the meeting shall be stated in the notice. No business other than that applicable to the purpose for the meeting shall be transacted at a special meeting unless the notice of the special meeting specifies that other business may be transacted at that time.

Section 2. A written notice of the time and place of any meeting of the membership of the organization shall be mailed to each member of the organization not less than five (5) days, nor more than three (3) weeks, prior to such a meeting. The notice of the a special meeting of the membership shall state the purpose for which the meeting is called, an no business other than that applicable to the purpose specified in the notice shall be transacted at that meeting.

ARTICLE VIII

CONDUCT OF THE MEETINGS

Section 1. All meetings of the membership and of the Board of Directors of the organization shall be conducted in accordance with the Robert's Rules of Order.

Section 2. The business of all meetings of the membership and of the Board of Directors shall include the following unless waived by a vote of the meeting.

1. Minutes of the previous meeting
2. Treasurer's report.
3. Director of the Kent County Office of the Defender's report.
4. Old business, if applicable.
5. New business.

ARTICLE IX

NOMINATION AND ELECTION OF THE BOARD OF DIRECTORS

Section 1. Subject to the transactional rules established by the Board of Directors pursuant hereto, there shall be an annual election of the directors by the membership.

Section 2. The President, with the approval of the Board of Directors of the organization, shall appoint a nominating committee from among the directors of the organization to establish a slate of nominees. The slate of nominees shall be included with the notice of the annual meeting of the membership to be mailed to each member of the organization. Additional nominees may be submitted to the Chairman of the Nominating Committee by any member of the organization.

Section 3. At least two (2) weeks prior to the annual meeting and after reasonable notification has been made of the opportunity to make additional nominations, members shall be mailed a slate of nominees. Directors shall be elected by a majority of those members present and voting at the annual meeting.

ARTICLE X

FISCAL YEAR

Section 1. The fiscal year of this organization shall be a calendar year.

ARTICLE XI

AMENDMENT OF THE BY-LAWS

Section 1. The By-Laws may be amended by a 2/3 vote of the members of the organization present at any regular meeting or at any special meeting called for such purpose by a 2/3 vote of those present. Notice of any proposed amendment shall accompany the notice of the meeting.

Section 2. The By-Laws may also be amended by the affirmative vote of the majority of the entire Board of Directors at any regular meeting or at any special meeting called for that purpose. Notice of any proposed amendment shall accompany the notice of the meeting.

Appendix 5.

Kent County Indigent Defense Administration Office Guidebook for Roster Attorneys

INDIGENT DEFENSE IN KENT COUNTY – A NON-COMPREHENSIVE GUIDEBOOK

This guidebook is for **all** attorneys representing indigent clients pursuant to a contract with Kent County, whether private roster attorneys or attorneys employed by the Kent County Office of the Defender (KCOD). This has been prepared by the staff of the Indigent Defense Administration Office and is meant to supplement the Indigent Defense website, located here:

<https://www.accesskent.com/Departments/IndigentDefense/default.htm>

The website is where you can locate forms for: Requesting a transcript; Requesting an expert (or other services); Seeking reimbursement for experts/services

An initial note for **attorneys at KCOD**: when issues arise related to your responsibilities to clients, courts, and ethical obligations, consult first with your supervisor. If you still have questions or concerns, please do not hesitate to reach out to indigent-defense@kentcountymi.gov.

An initial note for **private roster attorneys**: when issues arise related to your responsibilities to clients, courts, and/or ethical obligations, consult first with the RFP and your executed contract. As always, if you still have questions or concerns, please do not hesitate to reach out to indigent-defense@kentcountymi.gov.

Who We Are.

The Kent County Indigent Defense Administration Office is currently staffed by 3 people: Craig Paull, Indigent Defense Administrator; Kirsten Holz, Assistant Corporate Counsel for Indigent Defense; and Molly Higgins, Indigent Defense Administration Analyst.

What Do We Do?

Our office is responsible for managing and compensating a roster of approximately 50 private bar attorneys as well as a contract with the non-profit Kent County Office of the Defender. We oversee Kent County's compliance with the Michigan Indigent Defense Commission, which sets [standards](#) for the practice of indigent criminal defense. Because we are a separate entity from the MIDC, we, as Kent County, have set our own standards. In some cases, our contractual requirements exceed the MIDC standards. ***We cannot stress this enough - if you are handling indigent defense cases, please read each of the standards in their entirety.*** At a minimum, the standards help to provide context for the data we collect from each of you.

We process transcript requests, expert requests, funding requests, field questions from defendants and attorneys. We also provide funding for juvenile LWOP resentencings. Our goal is to assist attorneys in providing exceptional holistic, client-centered representation to indigent defendants.

Appointment Process.

Our office handles requests for appointed counsel for all felonies in all district courts in Kent County. We also appoint counsel for misdemeanors in the 63rd District Court. Appointments for misdemeanors in the district courts are handled either by Jessica Van Solkema (61st DC) or Paul Van Gessel (62A, 62B, 59GW).

On a daily basis, each of the district courts emails requests for the appointment of counsel. The quantity of appointment requests varies greatly from day to day, but typically, we are appointing anywhere from 20-40 new cases each weekday. This does not include requests to staff investigative subpoenas, reappointments due to conflicts, or PPO's.

When an appointment request is received, any one of the three ID staff may assist with processing. Because the paperwork received from each of the district courts is different, the time it takes to process each appointment is different. Some courts include a court services report or bond report in their request for appointment; others do not, and therefore, we must attempt to find those reports.

The documentation received from the courts is saved as one file that we call the "PKG" file. The file name is always in the same format:

DATE OF APPT	DISTRICT COURT	
	CASE NUMBER	
2024-02-23	62A 24FY0123	FLOYD MAYWEATHER PKG.pdf
COURT		CLIENT NAME

If we can find any other documentation, we will combine that into the PKG file.

All felony appointments are processed using the CourtView application. This is the same case management system used by the 17th Circuit Court. The process (roughly) is as follows:

1. Perform jail search to see if defendant is in custody, and if so, amount of bond, and whether there are any holds
2. Search defendant name in CourtView for existing open cases or recently closed/appointed cases
3. If there is a pre-trial services report, pull that and combine into PKG file
4. Check documentation for co-defendants if court has included that information
5. Enter a special code to generate a new case entry for appointing counsel
6. Ensure address format is correct, or at a minimum, update to same as given on pre-trial services report
7. Manually enter court dates as provided by the court
8. Use CourtView to randomly appoint counsel
 - a. We can override the random nature of appointments in specific circumstances – i.e., where an attorney has a conflict or already represents a defendant

9. Generate an appointment notice and manually input the data not included by CourtView
10. Send Notice of Appointment, using the same file name conventions as the PKG file, to attorney, prosecutor, court clerk, and the jail, if defendant is in custody.
11. If defendant is out of custody, print and mail copy of Notice.

I was appointed. What now?

Once you and/or your office receives the notice of appointment, the clock starts running on the timing of the initial interview (for roster attorneys, see pg. 6 of Felony Contract). If you receive the appointment after 4:30 PM, the clock starts running on the following business day. All attorneys will receive notices via email.

First things first – perform a ***conflict check*** as soon as practicable. This is often not possible until you’ve received a police report, but you must perform a conflict check to be sure you can continue representing the defendant.

Second – contact your client.

If they are in jail, visit them in-person or immediately schedule a visit through the ICS system. As an appointed attorney, you can set up an account [here](#). The ICS system has, historically, not been without connectivity issues, so please do not rely on that to comply with the ***3-business day*** visit requirement. This requirement is from Standard 2.

If they’re out of jail, call them and send a letter instructing the client to contact you to set up an appointment. Letters need to state more than “I will see you at your next court date.” The purpose of the Initial Interview standard is to ensure that the attorney has as much information as possible so as to provide quality representation as early in the case as possible.

For roster attorneys - on your monthly invoice submissions, you must ***indicate when/how you complied*** with the initial interview requirement – the date you made contact, how contact was made, and if no contact was made, what attempts were made to contact your client.

If you visit your jailed clients in person for the initial visit, you MUST fill out the visit paper handed out at the jail lobby and indicate that you are there for an initial or 72-hour visit.

Because the notice of appointment goes to the prosecutor’s office as well, they know that you are the attorney of record. Discovery should start being sent to you within 48 business hours. Our office has nothing to do with discovery. We never even see a police report, let alone any other evidence. Issues with timely disclosure of discovery must be addressed with the prosecutor’s office, or, if that doesn’t work, a Motion to Compel.

Billing and Invoicing for Attorney Time (Roster Only).

All attorneys must bill in *quarter-hour increments* for their work on cases. Invoices must be submitted via the County-supplied mechanism on a monthly basis. Failure to submit monthly invoices when case activity has occurred may lead to suspension of further appointments and/or termination of the contract. Compensation will be at the following rates, with no caps on number of hours:

- Misdemeanors, PPO violation, and show cause hearings: **\$130 per hour;**
- Non-capital felonies, high crime misdemeanors, and probation violations: **\$150 per hour;**
- Capital felonies; lineups; and investigative subpoena hearings: **\$180 per hour.**

When completing your time in the invoicing form, be sure you have selected the appropriate category for that portion of work.

CONFLICTS or Other Situations Requiring Attorney Withdrawal.

If you realize there is a conflict of interest, you must notify our office ASAP at indigent-defense@kentcountymi.gov.

If you noticed the conflict *before* appearing on the record, we can handle the withdrawal and new appointment without involving the court.

If, however, you notice the conflict *after* you've appeared on the record, you must move to withdraw either via motion or orally. Our office can appoint new counsel once we receive an order from the judge or confirmation from chambers that the withdrawal was granted.

Occasionally, our office appoints a defendant to Attorney B when the defendant is already represented by Attorney A. We search CourtView and our internal files to try to prevent this, but it does happen. If, after speaking with Attorney A and your client, you determine that Attorney A is better suited to represent your client on both cases, you must let us know so that we can be ready to immediately appoint Attorney A.

Please DO NOT use a substitution of counsel to address the scenario above. Please file a motion to withdraw or orally move to withdraw with the court. By looping our office in as early as possible, you help us to avoid gaps in representation.

How do I get TRANSCRIPTS?

You guessed it! There's a [form](#) for that.

This form is used for preliminary exam transcripts and any other transcript of any other hearing. Always submit requests to indigent-defense@kentcountymi.gov rather than one of our individual email addresses. All staff members of the Indigent Defense office have access

to that collective email inbox, which helps to ensure prompt processing of any of your requests.

Do NOT submit a transcript request to the court yourself. Because of Standard 5 (Independence from the Judiciary), our office is now the approving authority for all transcript requests (and experts, as you'll see below).

Requesting an EXPERT (or other case-related service).

Yet another [form](#).

Use this to request funding for expert witnesses, consultation experts, jury consultants, trial exhibits, independent polygraphs, etc.

If you have questions or aren't sure whether something is able to be reimbursed, please reach out to our office.

Additionally, if you're having trouble finding the right expert for your case, contact our office – we have access to large databases of expert witness names.

Requesting an INVESTIGATOR.

Investigative requests are the one specific area that does not process directly through the KCIDAO. The Kent County Office of the Defender has a staff of four (or more) investigators available to help with case investigation, witness interviews, photographs, obtaining additional evidence, service of subpoenas, and more.

To request the assistance of an investigator for one of your cases, contact Chris Dennie (cdennie@kcod.org), Director of KCOD.

In the rare event that KCOD's staff of investigators are conflicted out or otherwise unavailable, please contact our office. We can fund independent investigators, but that will require a completed expert request form. Be sure to obtain a quote from an investigator you're considering hiring so that we can fund the request appropriately.

Payment of experts, outside transcriptions, other services.

First, be sure that you've properly submitted the request AND that you've received an approval message that includes the limits of funding.

You must include enough information for us to approve the request – always include the estimated cost of the services.

Once you receive approval to use a specific expert or service, you can choose to pay the expert/company yourself and then seek reimbursement by the county (this is always the

fastest method), or the indigent defense program can pay the expert/service provider directly.

Regardless of the method of payment, all attorneys (or an authorized staff member) must submit a certification that the services received were in line with their expectations and that the billing is appropriate. If an attorney already paid the service provider, a copy of the invoice needs to be attached to the [Request for Invoice Payment / Reimbursement form](#), which is also available on the home page of the Indigent Defense website.

What are my CLE requirements?

Please check the Indigent Defense website for FAQ's on CLE's.

In brief, pursuant to MIDC Standard 1, all attorneys providing indigent defense services are required to complete **12 credit hours** of Continuing Legal Education (CLE) per calendar year.

In a change from years past, we are now requiring some additional CLE hours. Included in, or in addition to those 12 credit hours, must be 1 hour relating to **forensics** (e.g. DNA, blood spatter, SANE exams, fingerprinting, ballistics, etc.), 1 hour relating to **technology** (e.g. cell phone evidence, cybersecurity, effective use of technology in trial, etc., and 1 hour relating to **DEI or ethics**. This requirement does not start until January 2024.

All attorneys on the criminal list will be required to **utilize CE Broker** to post credits for required training. It is acceptable to complete the 3 specific CLE courses within your 12-hour allotment, but if an attorney is unable to do so, then any of the additional required credit hours in the specified areas must be completed separately.

The County reimburses up to \$50 per credit hour for CLE's.

Resources for completing your CLE requirement are numerous, and our office is happy to help facilitate finding suitable CLE courses. The Grand Rapids Bar Association offers monthly MIDC-approved lunch and learns, the cost of which are covered by the County. The Criminal Defense Attorneys of Michigan (CDAM) also offers a wide variety of CLE. Other options include SADO, NAPD, and NACDL.

Other Important Items.

- Monthly reconciliations – must be completed on the spreadsheet provided by the county, and NOT handwritten.
 - This is where you will indicate when a case is closed, and the manner in which it was resolved. Once a case is closed, it will not appear on the following month's reconciliation spreadsheet.
- Duty to notify of a grievance – all attorneys must notify the County within 3 business days of receiving notice of a grievance or other disciplinary action.

- Mandatory use of mitigation specialist and investigators on capital cases – Attorneys who are handling capital cases are required to consult with both a mitigation specialist AND investigator. This requirement is simply for a consultation – it does not impose a requirement for an ongoing investigation or mitigation work. It is only intended to encourage a thorough and complete analysis of all capital cases. The manner in which a capital case continues post-consultation is solidly within the discretion of the assigned attorney. After a consultation, attorneys may decide that an investigator and/or mitigation specialist is not necessary for a given case, or they may seek to continue with those services. If you cannot conduct a consultation with one of KCOD's on-staff investigators or mitigation specialists due to a conflict, let our office know as soon as possible so that we can facilitate independent support.
- All attorneys must let us know when starting a trial – we will pause appointments during trial for roster attorneys.
- Vacation or other time away from practice (for roster attorneys only) – please let us know at indigent-defense@kentcountymi.gov if you're planning time away. We are happy to pause appointments during that time period. Obtaining coverage for your existing cases remains your responsibility.
- While your contractual requirements do not include filing post-conviction or prosecution appeals, you do have a duty to assist your client in filling out the Application for Appellate Counsel if they wish to do so.

Collateral Consequences.

Attorneys must advise their clients of collateral consequences that are applicable to their client's particular set of circumstances. This can include, but is not limited to, immigration consequences (see *Padilla*, 559 US 356 (2010)). Attorneys must familiarize themselves with driver's license penalties for the relevant crimes charged, SORA penalties, lifetime electronic monitoring, occupational license consequences, etc.

Attorney Best Practices.

We realize that the vast majority of appointed attorneys in Kent County are experienced litigators who have developed their own methods to zealously represent their clients. As an aid to newer attorneys practicing under the County's contractual supervision, here are some best practices to pick and choose from as you see fit.

1. ***Client-centered representation.***
 - a. You are an advocate for the wishes of your client, NOT what you (or their family, boss, friends, etc.) think is best for your client.
 - i. You might think a jury trial is a terrible idea for your client, but they really want one. You should run a jury trial.
 - ii. You think a bond reduction isn't a good idea because you're worried your client will return to abusing substances (or carrying a firearm illegally, etc.). You should file a bond reduction motion.

- b. Client-centered representation assumes that the lawyers are the experts in the law, but that clients are the experts on their own lives. The individual freedom and dignity to make decisions about their case is central to this model of representation. It requires a lot of communication and active listening. Your client might not make a decision that you think is wise, but at the end of the day, they're the only one with something to lose if things don't go well.
- 2. ***Regular and frequent jail visits.***
 - a. If your clients are in custody, visit them. Schedule regular ICS visits. As a good rule of thumb, you should endeavor to speak to your client at least once every 3 weeks – this is true even if there is nothing going on with their case. Clients appreciate updates, even if the update is “I am still waiting to hear back on X.”
- 3. ***Regular phone calls, emails, or letters.***
 - a. Same principle as above. Regular contact with clients, even if it is to say that you don't have an update, builds trust. Trust is crucial if you're trying to convince someone that pleading guilty to a prison sentence is their best course of action.
- 4. ***Reach out for help.***
 - a. Not sure how to approach a defense? Unsure of how to structure your cross examination? Have no idea which expert to hire? Feeling overwhelmed and overloaded? ASK FOR HELP. We have access to resources that can help with almost any problem you might have. If our office doesn't have the answer, we will try to find it.
- 5. ***Learn ways to improve client interviews.***
 - a. Start an initial client meeting off with “Hi, I'm Sonja. I have been assigned to represent you in your case. I don't work for the state, the prosecution, or the cops. I am your lawyer, and that means our conversations are confidential. Before we talk about your case, is there anything you need me to do or know right off the bat? Like call your boss, your mom, ask your wife to put money on your account – anything like that?”
 - i. Clients who are incarcerated are often frantic and frustrated with something they need to do or have taken care of. Many people are arrested, leaving their pets at home unattended. Not everyone is able to reach a family member or friend. You can build enormous trust by offering to help with something small, like a phone call.
 - b. Talk to your client **EVEN IF YOU DON'T YET HAVE THE POLICE REPORT OR ALL DISCOVERY.**
 - i. Meeting your client just to introduce yourself isn't a waste of time.
 - ii. If a client paid you \$15K to hire you, you talk to them about their case generally, even if you don't have all the discovery. It shouldn't be different for indigent clients.
 - c. Explain attorney-client privilege
 - i. Use this to reiterate that jail calls **ARE RECORDED** and that the prosecutors **CAN** and **WILL** use them against them.

- ii. Be sure to explain that attorney-client privilege does not extend to boyfriends, girlfriends, husbands, or case workers.
- d. Generally explain the process for felony cases in general terms.
 - i. Give your clients an idea of timing of hearings, what prelims look like, what to expect in court from the judge, etc.
- e. Always ask if your client is on parole or probation anywhere in the United States.
 - i. It is consistently surprising how many clients don't mention they're on some type of supervision – whether it is because their parole agent already knows they're in trouble or for some other reason.
- f. Always ask your client about their immigration status. It is crucial to know the exact status/visa possessed by your client when advising them about their options.
- g. End an initial client meeting by making a promise to your client AND KEEPING IT. Promise something small and easily accomplished.
 - i. If you promise to call your client's mom – CALL HER.
 - ii. If you promise to file a motion to reduce bond – FILE IT.
 - iii. If you promise to mail a copy of the jury instructions – MAIL IT.
 - iv. If you promise to follow up with your client in a week – DO IT.

Appendix 6.

Kent County Office of the Defender Holistic Defense Yearly Report (2022/2023)

2022-2023

**KENT COUNTY
HOLISTIC DEFENSE**

**YEARLY
REPORT**

February 2023



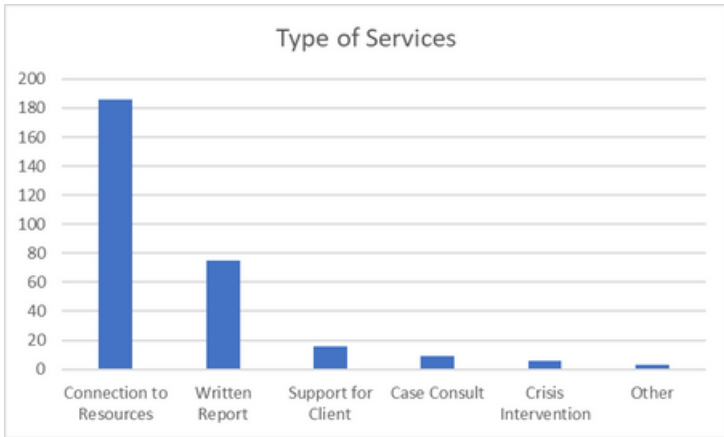
Mitigation Specialists

Chelsea Hawkins
Kristen Garrett
Jameila Simmons
Demont Smith
Ashley Nabors

Contact at chawkins@kcod.org
or 616-774-8181

Kent County Holistic Defense

YEARLY REPORT BY MITIGATION SPECIALISTS

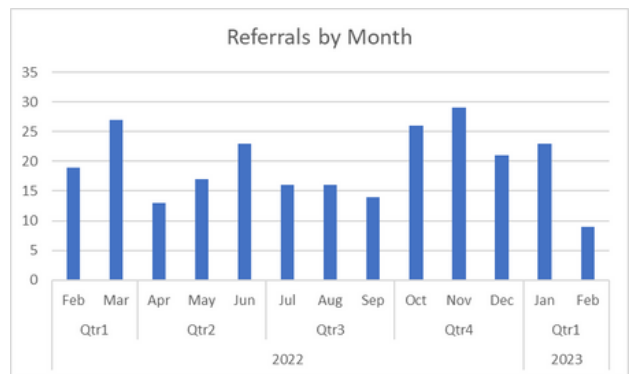
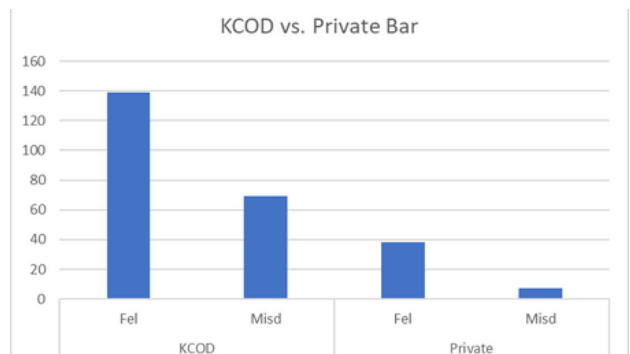


WHERE WE HAVE BEEN

The Kent County Holistic Defense program started taking referrals in February 2022. Since that time, we had many wins and assisted 250 clients. We received referrals from 37 attorneys, assisted with felonies and misdemeanors, and worked with each Judge in Kent County. Our program has assisted in dismissals, acceptance to specialty courts, bond modifications, Cobbs agreements, reduced charges, and reduced / alternate sentences. We have submitted 75 reports and have established ourselves within the Kent County criminal legal system.

WHERE WE ARE GOING

While we have accomplished so much, we have big plans to continue our reach. We hope to expand our program and assist even more clients in this next year. With your help, we can continue to serve the indigent population of Kent County.



75
Written reports

6
Courts

250
Clients served

37
Attorneys

186
Connection to resources

Our Wins

Connection to Resources

- Connected with over 50 service providers in Grand Rapids
- Connected clients to housing services (including emergency, transitional, and permanent), mental health and substance abuse treatment, Adult Foster Care homes, food pantries, domestic violence shelters, employment agencies, education resources, literacy resources, Medicaid enrollment, food stamps, and more
- Clients obtained PR bond or release at sentencing due to resources they were connected to
- Charges dismissed due to resources clients were connected to
- Assisted refugees in connecting with resources in the area

Crisis Intervention / Support for Client

- Facilitated assessment and inpatient treatment authorization from Network180 Mobile Crisis Unit for clients at courthouse experiencing suicidal ideation
- Managed client with suicidal ideation and psychosis at the courthouse by involving mental health professionals and avoiding the client going into custody due to symptoms
- Emotional and material support to client charged with Open Murder and client's family during trial

Written Reports

- Reports influenced Judge to grant Criminal Responsibility Assessment
- Negotiation report for juvenile with 6 felonies obtained an offer of a plea for 4 felonies and a 1 year county cap
- Cobbs request report resulted in 1 year county cap
- Negotiation report facilitated a MCL 771.1 suspended sentence to participate in mental health treatment
- Obtained PR bond due to treatment for mental health and substance abuse documented in report
- Judge downward departed from sentencing guidelines due to report
- Judge stated written report brought clients sentencing down from middle to bottom of guidelines
- Obtained offers with lower sentencing guidelines due to negotiation reports
- Obtained lower than presumed sentencing due to sentencing reports, as much as 3.5 years lower than presumed sentence

**"THIS PROGRAM WILL BE TRANSFORMATIVE"
- JUDGE JENNIFER L. FABER**

" I DID RECEIVE AND REVIEW YOUR SENTENCING MEMO WHICH DID REALLY ENHANCE THE INFORMATION AVAILABLE TO ME AND, FRANKLY, CHANGED MY MIND IN THIS CASE FROM A DEPARTMENT OF CORRECTIONS SENTENCE TO A JAIL SENTENCE, SO -- BECAUSE GIVEN THE RECORD HERE I WAS THINKING OF GOING HIGHER, BUT YOUR -- THAT MEMO, BY ITSELF, CONVINCED ME THAT [CLIENT NAME] DESERVES A CHANCE IN THE COMMUNITY. "
-JUDGE J. JOSEPH ROSSI