



COUNTY ADMINISTRATOR
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TO: Katie Scott, Chair
Ways & Means Committee

THROUGH: Gregory Dill
County Administrator

FROM: Delphia Simpson, Chief Public Defender
Washtenaw County Public Defender Office

DATE: May 1, 2019

SUBJECT: Washtenaw County Indigent Defense Fund Creation
Office of Public Defender Position Creation

BOARD ACTION REQUESTED:

It is requested that the Board of Commissioners authorize the creation of the Washtenaw County Indigent Defense Fund to be used to account for earmarked state grant revenue and mandated local share contribution to provide indigent defendants in criminal cases with effective assistance of counsel as required in MCL 780.993(14)(b).

It is also requested that Board of Commissioners authorize the creation of eight positions in the Public Defender Office that were approved to be funded by the Michigan Indigent Defense Commission grant to fully comply with the approved Washtenaw County Compliance Plan for Standards 1-4 for improvements for to the Washtenaw County Indigent Public Defender Delivery System for the period of October 1, 2018 Through September 30, 2019. These new positions consist of 1 Deputy Assistant Public Defender, 1 Management Analyst, 1 First Assistant Public Defender, 1 Assistant Public Defender, 1 Social Worker/ Mental Health Clinician and 3 Legal Clerks.

BACKGROUND:

The Washtenaw County Public Defender Office represents the close to 75% of criminal defendants throughout the county in all state and local criminal matters, including violations of probation matters. The Public Defender office as well as the Washtenaw County Indigent defense delivery system has enjoyed a long standing reputation for excellence. The Office has been called the state's model for the delivery for Indigent defense services. Several of the most recently created Public Defender Offices (i.e.

Muskegon, Berrien, Ingham, Marquette and Kalamazoo) have or are in the process of designing their offices after the Washtenaw County Public Defender Office.

Although Washtenaw County has a 35 year long history of being a leader in delivering quality indigent defense services, and in many areas meets or exceeds the minimum standards currently set by the Michigan Indigent Defense Commission (MIDC), there are some aspects where lack of financial resources have hindered the system.

The MIDC Compliance plan approved by the Board of Commissioners on November 15, 2017 and approve for re-submission with a budget adjustment on June 11, 2018 identified and addressed these area were with adequate financial resources as well as formalize best practices already used by the Public Defender Office will ensure that the Washtenaw County indigent defense delivery system fully complies with the first four standards issued by the MIDC

MIDC Approved Standards

The MIDC standards are as followed:

Standard 1- Training and Education of Counsel- Attorneys shall complete 12 hours of continuing legal education per year

Standard 2 – Initial Interview – The County shall provide confidential meeting space in the courthouse and Attorney will conduct client intake interview within three business days after appointment

Standard 3 – Experts and Investigators - Requires counsel to conduct an independent investigation.

Standard 4 – Counsel At First Appearance and Other Critical Stages of the Case- Attorneys will be provide to all persons appearing for arraignments and an attorney shall be appointed for all who are determined to be indigent

Washtenaw County Indigent Defense Delivery System

The delivery of indigent defense in Washtenaw County uses a combination several systems to provide the most effective services to its residence.

- Public Defender Office that represents all indigent felony defendants in the 22nd Circuit Court and misdemeanor indigent clients in the 14A District Courts, the 14B District Court.
- As part of the compliance plan, 14B District Court and the Washtenaw County Public Defender Office will be collaborating.

- The Washtenaw County Trial Court contracts with a criminal defense firm and maintains an assigned counsel list to provide representation in the event of any ethical conflict of interests, multiple co-defendants or any other conflict
- The 14A and 14B District Courts each have a centralized assigned counsel list for conflicts.

On April 20, 2018 the MIDC approved the amended Washtenaw County MIDC Compliance plan and the Board of Commissioner re- authorized the submission and the adjusted grant request.

DISCUSSION:

The Michigan Indigent Defense Commission Act (MCL 780.993(14) (b), requires all indigent criminal defense systems to create a separate fund to hold MIDC Grants funds as well as local share funds. The State Department of Treasury created this fund for the local chart of accounts. The fund will be utilized for the accounting of expenditures and revenues (state and local) for the operation of the local criminal indigent defense system.

For financial efficiency, the Washtenaw County Indigent Defense Fund will not only contain the state grant and local share funds for the adult indigent defense system, but the funds that support the Washtenaw County juvenile indigent defense system would also be transfer into the newly created fund account. The same high standards used for the accounting of expenditures and revenues for the adult indigent system will be used for the juvenile indigent system.

In preparing for the implication of the MIDC standards and as the indigent defense system was modified with the input of county and court stakeholders, it became evident that the staffing needs to fully comply with the standards needed to be revised. The Washtenaw Public Defender's office attorney staff number have remained unchanged for over 25 years while there has been a steady increase of the number of adult criminal complaints (cases) filed.

The existing MIDC budget was adjusted, without an increase, to address the need for support and attorney staff, supervisory and administrative/ management staff as well as client mental health staff.

The new positions will allow for a seamless implementation of the new standards and support in the preparation of quarterly MIDC reporting requirements.

IMPACT ON HUMAN RESOURCES:

- 1 FTE – Deputy Public Defender
- 1 FTE – First Assistant Public Defender
- 1 FTE – Assistant Public Defender
- 3 FTE – Legal Clerks
- 1 FTE – Social Worker
- 1 FTE – Management Analyst

<u>Position ID(s)</u>	<u>Position Title</u>	<u>Grade</u>	<u>Group</u>	<u>Create</u>	<u>Eliminate</u>
33430001	Deputy Public Defender	33	4100	1	
33030004	First Assistant Public Defender	33	6100	1	
28050015	Assistant Public Defender	28/30/32	6100	1	
16540002- 1654004	Legal Clerk	16	1100	3	
23110001	Social Worker	22	1000	1	
27190019	Management Analyst	27/29	4100	1	

* The only position that did not exist prior to this grant is the Deputy Public Defender. The job description for this position is included in the attachments.

IMPACT ON BUDGET:

The Public Defender’s Office will be switching from a General Fund Department to a Non-General Fund Department. All operations including the Local Share and Juvenile services will be transferred to the MIDC grant fund.

IMPACT ON INDIRECT COSTS:

None

IMPACT ON OTHER COUNTY DEPARTMENTS OR OUTSIDE AGENCIES:

The follow will benefit from the grant activities:

- Washtenaw County Trial Court – 22nd Circuit Court
- 14A District Court
- 14B District Court
- 15th District Court
- Washtenaw County Sheriff Office
- Washtenaw County Bar Association

CONFORMITY TO COUNTY POLICIES:

The requested Board action conforms with all applicable County policies.

ATTACHMENTS:

Resolution

Michigan Indigent Defense Fund Adjusted Budget

MIDC Position Allocations

Department of Treasury – 260 Indigent Defense Fund Letter

A RESOLUTION AUTHORIZING THE CREATION OF THE WASHTENAW COUNTY
INDIGENT DEFENSE FUND AND THE APPROVAL OF THE CREATION OF EIGHT
POSITIONS IN THE PUBLIC DEFENDER OFFICE

WASHTENAW COUNTY BOARD OF COMMISSIONERS

May 15, 2019

WHEREAS, The Washtenaw County Public Defender Office represents approximately 75% of all criminal defendants throughout the county in state and local criminal matters, including violations of probation matters, and the Public Defender office as well as the Washtenaw county Indigent defense delivery system has enjoyed a long standing reputation for excellence; and

WHEREAS, The Michigan Indigent Defense Commission (MIDC), created by legislation in 2013 (MCL §780.991) and charged with identifying and encouraging best practices for delivering the effective assistance of counsel to indigent defendants, required all Michigan indigent defense delivery systems to create a separate fund to hold MIDC Grants funds as well as local share funds MCL 780.993(14)(b); and

WHEREAS, The fund will be utilized for the accounting of expenditures and revenues (state and local) for the operation of the local criminal indigent defense system; and

WHEREAS, The State Department of Treasury created this fund for the local chart of accounts; and

WHEREAS, The funds that support the Washtenaw County juvenile indigent defense system will also be transferred into the newly created fund account utilizing the same high standards for the accounting of expenditures and revenues as for the adult indigent system; and

WHEREAS, The MIDC Compliance plan approved by the Board of Commissioners on November 15, 2017 and approved for re-submission with a budget adjustment on June 11, 2018 as well as approved by the MIDC; and

WHEREAS; the plan put forth in proposal identifies and addresses area were with adequate financial resources as well as formalize best practices already used by the Public Defender Office will ensure that the Washtenaw County Indigent defense delivery system fully compliances with the first four standards issued by the MIDC; and

WHEREAS, In preparing for the implementation of the MIDC standards and as the indigent defense system was modified with the input of county and court stakeholders, it became evident that the staffing needs to fully comply with the standards needed to be revised; and

WHEREAS, The Washtenaw Public Defender's office attorney staff numbers have remained unchanged for over 25 years while there has been a steady increase of the number of adult criminal actions filed; and

WHEREAS, it is requested that the Board of commissioners approved the creation of the Washtenaw County Indigent Defense Fund as required by MCL 780.993(14)(b) and to authorize the transfer of the Adult and Juvenile indigent defense system funds to be transfer into said account fund; and

WHEREAS, it is also requested that Board of Commissioners authorize the creation of eight positions in the Public Defender Office that were approved to be funded by the Michigan Indigent Defense Commission grant to fully comply with the approved Washtenaw County Compliance Plan for Standards 1-4 for improvements for to the Washtenaw County Indigent Public Defender Delivery System; and

WHEREAS, this matter has been reviewed by Corporation Counsel, the Finance Department, Human Resources, the County Administrator's Office, and the Ways and Means Committee.

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby authorizes the creation of the Washtenaw County Indigent Defense Fund as required by MCL 780.993(14)(b).

BE IT FURTHER RESOLVED that the Washtenaw County Board of Commissioners authorizes the following actions contingent upon receipt of the grant award in conformity with the application:

1. Authorizing the Administrator to sign the Notice of Grant Award/Contract, and any necessary amendments to the grant award/contract, and any other grant award/contract related documents
2. Authorizing the Administrator to sign delegate contracts in conformity with the application/award upon review of Corporation Counsel, to be filed with the County Clerk.
3. Amending the budget as attached hereto and made a part hereof

BE IT FURTHER RESOLVED that the Washtenaw County Board of Commissioners authorizes the creation of the following positions

Position ID(s)	Position Title	Grade	Group	Create	Eliminate
33430001	Deputy Assistant Public Defender	33	4100	1	
33030004	First Assistant Public Defender	33	6100	1	
28050015	Assistant Public Defender	28/30/32	6100	1	

16540002- 1654004	Legal Clerk	16	1100	3	
231 10001	Social Worker	22	1000	1	
27190019	Management Analyst	27/29	4100	1	

NERAL FUND

Impact of Shifting PD to NGF due to MIDC Grant Requirement

	2019			2020			2021			2022		
	2019 Current Budget	Recommended Budget	Variance	2020 Current Budget	Recommended Budget	Variance	2021 Current Budget	Recommended Budget	Variance	2022 Current Budget	Recommended Budget	Variance
venues:												
40050 Taxes & Penalties	73,058,385	73,058,385	-	74,152,057	74,152,057	-	75,262,133	75,262,133	-	76,388,860	76,388,860	-
45000 Licenses & Permits	435,686	435,686	-	431,199	431,199	-	436,665	436,665	-	451,317	451,317	-
50000 Federal/State/Local Revenue	12,712,256	12,712,256	-	12,759,294	12,759,294	-	12,767,358	12,767,358	-	12,804,895	12,804,895	-
60000 Fees & Services	22,360,029	22,360,029	-	22,361,860	22,361,860	-	228,565,799	228,565,799	-	22,773,216	22,773,216	-
65000 Fines & Forfeitures	1,012,100	1,012,100	-	1,012,100	1,012,100	-	1,012,100	1,012,100	-	1,012,100	1,012,100	-
66000 Interest Revenue	107,419	107,419	-	107,419	107,419	-	107,419	107,419	-	107,419	107,419	-
67000 Other Revenue & Reimbursemer	2,111,987	2,111,987	-	2,127,365	2,127,365	-	2,126,905	2,126,905	-	2,128,320	2,128,320	-
69500 Transfer In	8,385,319	8,385,319	-	8,422,904	8,422,904	-	8,472,904	8,472,904	-	8,572,904	8,572,904	-
Total Revenue and Other Sources	120,183,181	120,183,181	-	121,374,198	121,374,198	-	328,751,283	328,751,283	-	124,239,031	124,239,031	-

enditures:

70000 Personal Services	76,786,236	74,181,479	(2,604,757)	78,200,899	75,533,743	(2,667,156)	79,838,012	77,167,157	(2,670,855)	80,856,997	78,106,269	(2,750,728)
72500 Supplies	1,568,849	1,547,073	(21,776)	1,718,279	1,696,503	(21,776)	1,562,279	1,540,503	(21,776)	1,711,279	1,689,503	(21,776)
80000 Other Services & Charges	12,681,237	12,629,709	(51,528)	12,716,946	12,665,418	(51,528)	12,770,385	12,718,857	(51,528)	12,804,444	12,752,916	(51,528)
94000 Internal Service Charges	1,605,058	1,054,109	(550,949)	1,697,632	1,147,007	(550,625)	1,801,218	1,248,828	(552,390)	1,825,181	1,274,616	(550,565)
95000 Capital Outlay	88,625	88,625	-	88,625	88,625	-	88,625	88,625	-	88,625	88,625	-
98000 Reserves	300,000	300,000	-	650,000	650,000	-	800,000	800,000	-	800,000	800,000	-
99000 Transfers Out/Appropriations	27,153,176	30,382,186	3,229,010	26,301,817	29,592,902	3,291,085	25,890,764	29,187,313	3,296,549	26,152,505	29,527,102	3,374,597
Total Expenditures and Other Uses	120,183,181	120,183,181	-	121,374,198	121,374,198	-	122,751,283	122,751,283	-	124,239,031	124,239,031	-
20% of Recommended Budget Amount		24,036,636			24,274,840			24,550,257			24,847,806	

igent Defense Fund

1900

	2019			2020			2021			2022		
	2019 Current Budget	Recommended Budget	Variance	2020 Current Budget	Recommended Budget	Variance	2021 Current Budget	Recommended Budget	Variance	2022 Current Budget	Recommended Budget	Variance
venues:												
54000 State Revenue	1,494,647	1,462,463	(32,184)	1,316,975	1,316,975	-	1,316,975	1,316,975	-	1,316,975	1,316,975	-
69500 Transfer In		3,229,010	3,229,010	-	3,291,085	3,291,085	-	3,296,549	3,296,549	-	3,374,597	3,374,597
Total Revenue and Other Sources	1,494,647	4,691,473	3,196,826	1,316,975	4,608,060	3,291,085	1,316,975	4,613,524	3,296,549	1,316,975	4,691,572	3,374,597

enditures:

70000 Personal Services	515,021	2,604,757	2,089,736	562,167	3,229,323	2,667,156	609,685	3,280,540	2,670,855	651,537	3,402,265	2,750,728
72500 Supplies	216	54,126	53,910	216	37,099	36,883	216	35,817	35,601	216	34,687	34,471
80000 Other Services & Charges	111,871	769,842	657,971	59,871	187,496	127,625	59,871	180,522	120,651	59,871	175,342	115,471
94000 Internal Service Charges	135,184	1,186,488	1,051,304	135,184	1,154,141	1,018,957	135,184	1,116,646	981,462	135,184	1,079,279	944,095
95000 Capital Outlay	50,672	76,260	25,588	-	-	-	-	-	-	-	-	-
99000 Transfers Out/Appropriations	681,683	-	(681,683)	559,537	-	(559,537)	512,019	-	(512,019)	470,167	-	(470,167)
Total Expenditures and Other Uses	1,494,647	4,691,473	3,196,826	1,316,975	4,608,060	3,291,085	1,316,975	4,613,524	3,296,549	1,316,975	4,691,572	3,374,597

MIDC Grant Position Allocations					
Position ID	Position Title	Group	Grade	State Share	Local Share
33430001	Deputy Assistant Public Defender	4100	33	38%	62%
33030004	Frist Assistant Public Defender	6100	34	38%	62%
28050015	Assistant Public Defender	6100	28/30/32	38%	62%
16540002-1654004	Legal Clerk	1100	16	38%	62%
23110001	Social Worker	1000	22	38%	62%
27190019	Management Analyst	4100	27	38%	62%



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

NICK A. KHOURI
STATE TREASURER

260--Indigent Defense Fund

The Indigent Defense Fund may be found in applicable counties, cities, or townships. This fund is used to account for earmarked state grant revenue and mandated local share contributions to provide indigent defendants in criminal cases with effective assistance of counsel. This fund is required by the Michigan Indigent Defense Commission (MIDC) Act, Public Act 93 of 2013, as amended.

Indigent Defense state grants must only be used to bring an indigent criminal defense system into compliance with the minimum standards established by the MIDC in accordance with the MIDC Act. Local units should contact the MIDC for more information on the standards and what types of expenditures would comply with them.

Grants from the MIDC must be classified as a state grant revenue. If no other state grants are received within the fund, use of the State Grants Control 260-000-539 may be used. Otherwise use *Indigent Defense Grant 260-000-571*.

The revenue should be recognized when all eligibility requirements are met. If a grant is received prior to eligibility requirements being met, a deferred inflow must be recorded instead of a revenue until those requirements are completed.

The cash and investments of the Indigent Defense Fund are subject to the requirements of 1943 PA 20, MCL 129.91, and may be included in pooled cash and investment accounts.

The Indigent Defense Fund must operate only with a budget adopted by the local unit governing body as required by 1968 PA 2, MCL 141.421 to MCL 141.440a.

All claims (expenditures) must be approved by the legislative board or council pursuant to: Cities--1895 PA 215, MCL 87.7, MCL 88.20; Townships--Revised Statutes of 1846, MCL 41.75; Counties--1851 PA 156, MCL 46.11(g); 1909 PA 58, MCL 46.71; 1943 PA 182, MCL 46.53; and 1923 PA 301, MCL 46.63.

Washtenaw County

JOB DESCRIPTION

Job Code: 3343
Authorization: RES#
Employee Group: 4100
Non-union

CLASS TITLE: DEPUTY PUBLIC DEFENDER
DEPARTMENT: Public Defender
FLSA STATUS: Exempt

JOB SUMMARY

Under administrative direction of the Public Defender, this position develops, recommends, implements and coordinates policies, programs, and projects related to the office of Public Defense. Provides organizational direction to department and responsible for staff, policy, and program assistance to the cooperative working relationships among County management staff, intergovernmental, and regulatory agencies and various public and private organizations. May provide project or ongoing direction to designated County management. Performs related work as assigned.

EXAMPLES OF DUTIES

Essential Duties:

- Works closely with the Public Defender to develop and implement legal goals, objectives, policies, procedures and work standards to include the planning, organization, assignment, direction, review and evaluation of the work of trial attorneys, support staff and volunteers.
- Coordinates the implementation of policies and programs, developing procedures and utilizing staff, financial and community resources as required.
- Advises the Public Defender on issues and programs; prepares specific proposals for action on current and future County needs; develops and directs the creation of management systems and work standards to evaluate program effectiveness and efficiency.
- Works with Public Defense staff to assist with litigation and providing assistance for large case loads.
- Direct the attorney workforce plus training and coordination of support staff and all student interns.
- Confers with staff at all levels to coordinate activities, foster cooperative working relationships and facilitate efficient and cost effective service delivery.

- Represents the office of Public Defense with governmental agencies, community groups and various businesses, professional and other organizations.
- Performs other duties as assigned.

The above statements are intended to describe the general nature and level of work being performed by employees assigned this classification. They are not to be construed as an exhaustive list of all job duties performed by personnel so classified.

EMPLOYMENT QUALIFICATIONS

Knowledge, Skills, and Abilities:

- Administrative principles and practices, including goal setting, program and budget development and administration and human resources in a public agency setting.
- Principles and practices of public administration.
- Applicable federal, state and local laws and regulations.
- Funding sources impacting program development and service delivery.
- Social, political, environmental and related issues influencing local government functions and activities.
- Basic supervisory principles and practices.
- Planning, organizing, coordinating and administering varied programs, projects and services in a public agency setting.
- Developing, recommending, and coordinating the implementation of goals, objectives, policies, procedures, work standards and internal controls.
- Interpreting, applying and explaining complex laws, policies and regulations.
- Analyzing complex administrative problems, evaluating alternative solutions and adopting effective courses of action.
- Using sound, independent judgment within general policy and legal guidelines.
- Preparing clear, concise and effective written materials.
- Establishing and maintaining effective working relationships with the County staff and a variety of public and private organizations.

LICENSES/CERTIFICATIONS

Must be licensed in good standing to drive a motor vehicle and to practice law in the State of Michigan. Admittance to practice in front of federal courts and the U.S. Supreme Court is desirable.

PHYSICAL DEMANDS

Duties require sufficient mobility to work in a normal office setting and use standard office equipment including a computer, vision to read printed materials and a computer screen and hearing and speech sufficient to communicate in person or over the telephone.

These requirements may be accommodated for otherwise qualified individuals requiring and requesting such accommodations.

EDUCATION

Possession of an Undergraduate Degree (with preferable courses in business management and/or criminal law) plus a Juris Doctor Degree with a required Certificate of Admittance to the State Bar of Michigan as evidence of continued good professional standing and authority to practice law throughout the state.

EXPERIENCE

A minimum of five (5) years of experience in the practice of criminal law or governmental law, or the equivalent.

This class description intends to identify the major duties and requirements of the job and should not be interpreted as all-inclusive. Incumbents may be requested to perform job-related duties other than those outlined above and may be required to have specific job-related knowledge for successful job performance.