



MICHIGAN INDIGENT DEFENSE COMMISSION

House Subcommittee on Licensing and Regulatory Affairs
Loren Khogali, Michigan Indigent Defense Commission
February 26, 2019

The Evolution of MIDC

- **2007** – ACLU filed *Duncan v. State of Michigan*, arguing that the State was denying constitutionally adequate defense to indigent criminal defendants.
- **2008** - Michigan was failing to provide constitutionally mandated effective assistance of counsel to people who could not afford to hire an attorney, *A Race to the Bottom Speed and Savings over Due Process: A Constitutional Crisis*.



The Evolution of MIDC

- **2011** – An advisory commission was convened and took testimony from a variety of stakeholders in the criminal justice system. As a result, the Indigent Defense Advisory Commission recommended that a permanent Commission be established to create and enforce uniform public defense standards throughout Michigan.
- **2013** - The Michigan Indigent Defense Commission (MIDC) was created by Public Act 93 of 2013 and began its work. *Duncan* was voluntarily dismissed.



Michigan Indigent Defense Commission Act

- Collects and compiles data for the review of indigent defense services in Michigan
- Creates minimum standards for indigent defense delivery systems
- Works with local systems to design plans to meet the standards and measures the performance of counties in providing public defense services
- Awards state funded grants to local systems to fund the compliance plans and bring systems into compliance

MIDC's First Statewide Standards



Require training and education of counsel



Provide counsel at first appearance and other critical stages

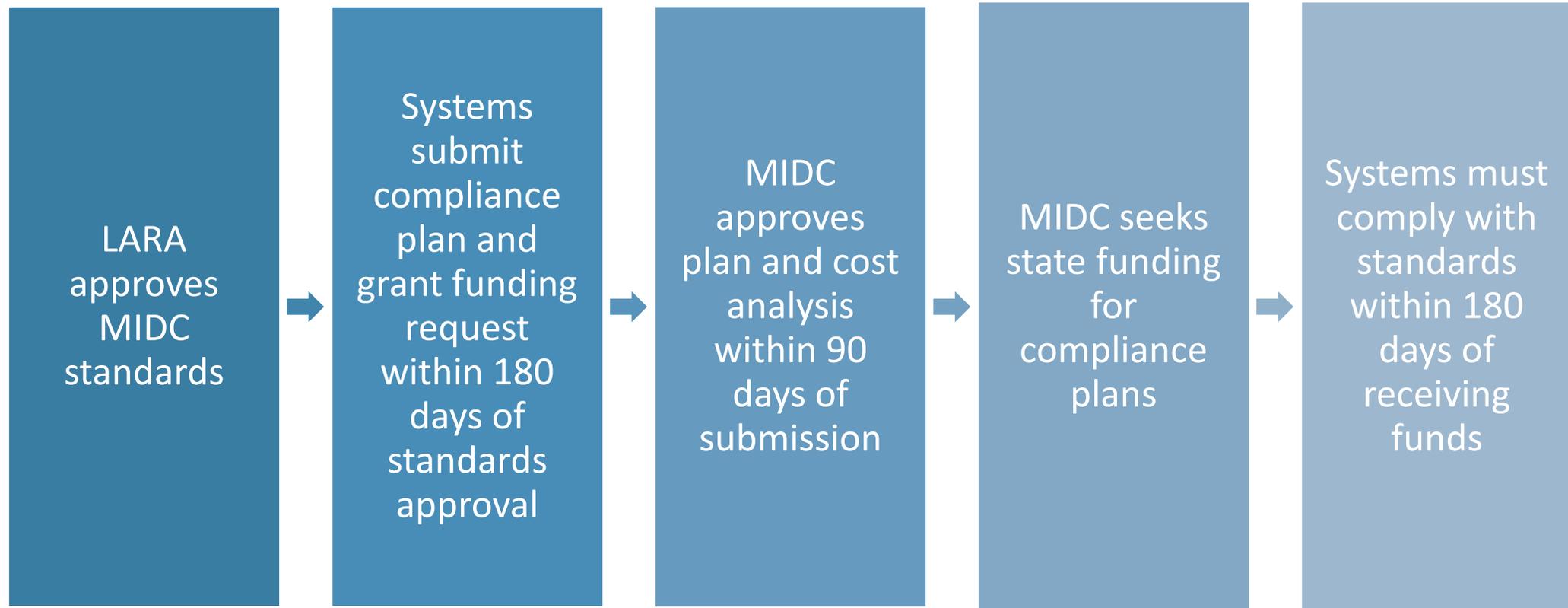


Encourage the use of investigation and experts



Attorneys must have an initial client meeting as soon as practicable

Progression of Plan Implementation



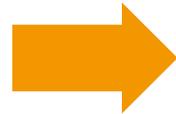
Plan Submission and Approval Process



Funding Distribution

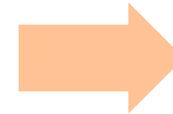
June 2018

- Commission approves final round of compliance plans submitted by local systems



July 2018

- \$87 million appropriated to fund compliance plans



October 2018

- MIDC begins to distribute grant funds to local systems to implement their plans

Northern Michigan



FY 19 **\$285,724** in state funding for Chippewa County.

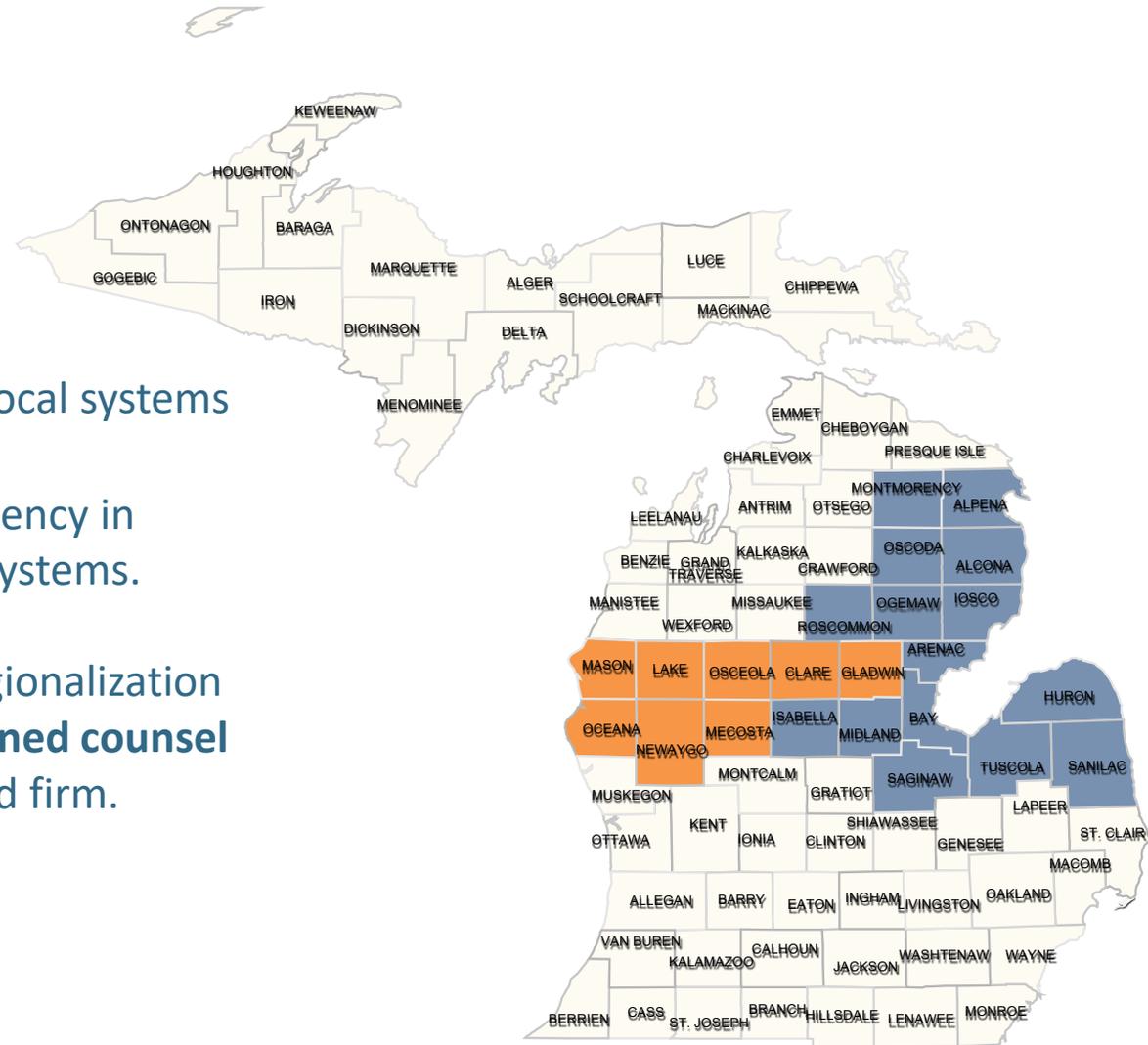
Public Defender Office established in 1994. Funding for standards implementation allowed for increased attorney and support staffing, contractor resources, and expansion of internships and educational community programs.

Mid-Michigan

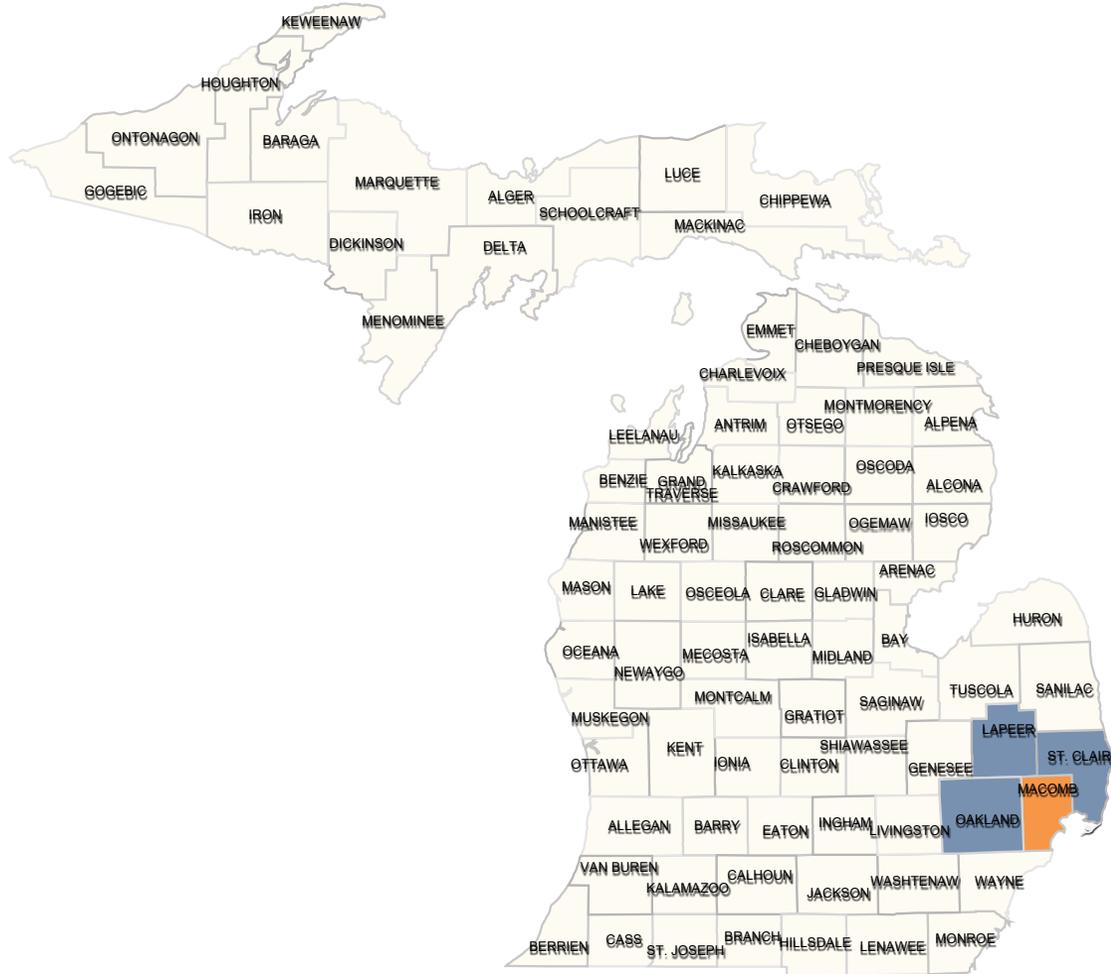
FY 19 **\$3,328,163** in state funding to 8 local systems

2017 innovation grant study indicated efficiency in regionalizing *six* indigent defense delivery systems.

Implementation expands to a model for regionalization of *eight counties*, creating a **managed assigned counsel system** with oversight by a single contracted firm.



Lapeer, Macomb, Oakland, St. Clair



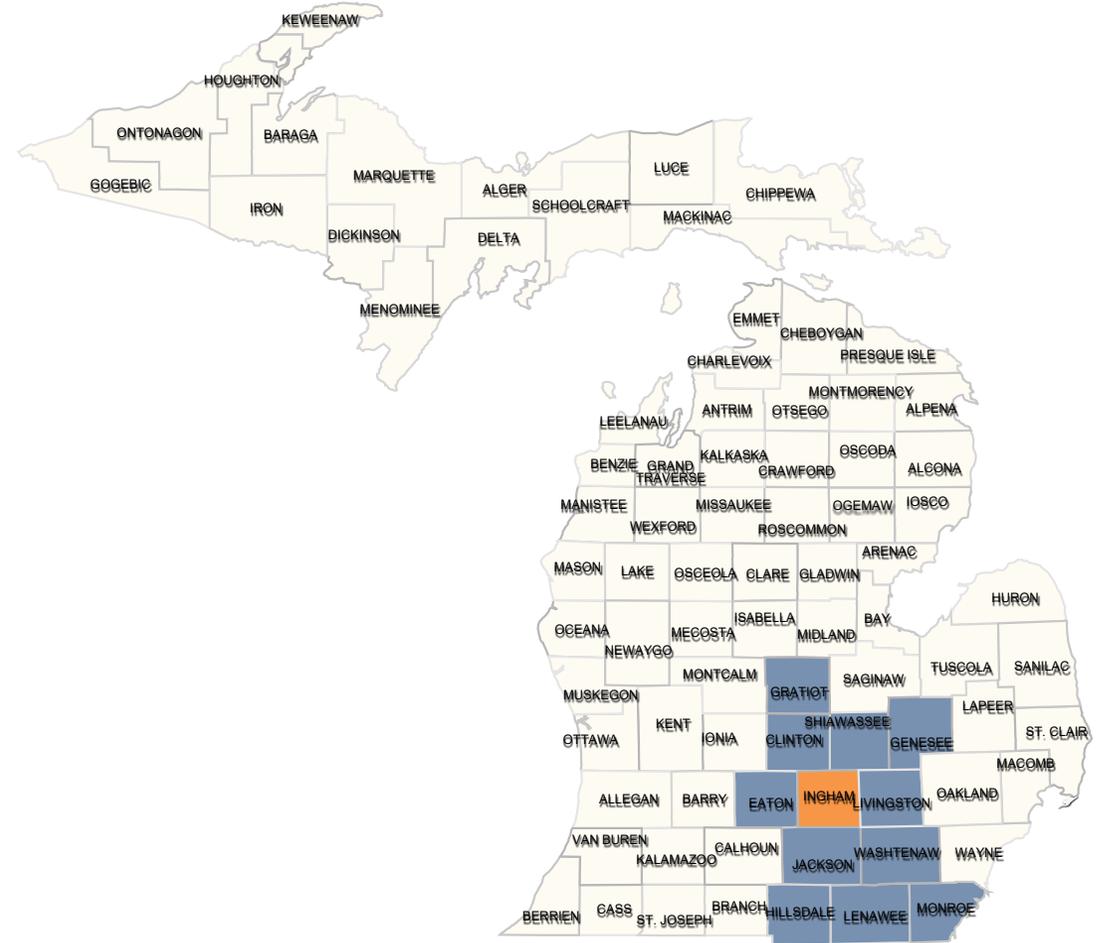
FY 19 **\$241,233** in state funding to
41-a-1 District Court in Sterling Heights

Funding allowed for renovation to space
for in-custody defendants to meet
privately with attorneys in a traditional
assigned counsel system.

South Central Michigan

FY 19 **\$4,520,487** in state funding to Ingham County

Large system transitioning from an assigned counsel model to a **county-wide public defender office** that will take all cases except conflicts.



Wayne County



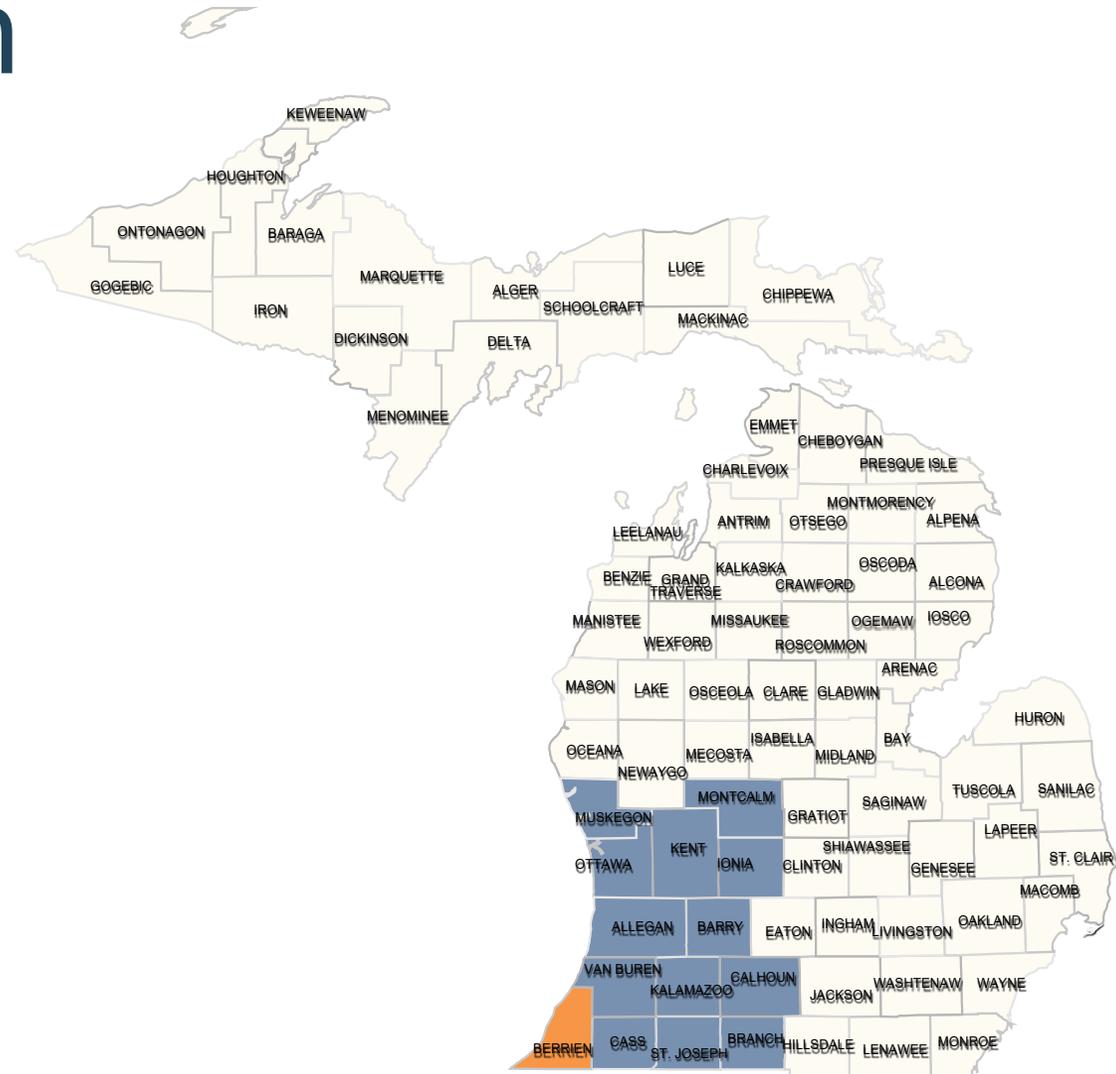
FY 19 **\$320,606** in state funding to 29th District Court in the City of Wayne.

Funding designed to allow increased access to facilitate in-custody meetings between attorneys and clients in an historically under-resourced **contract system**.

Western Michigan

FY 19 **\$1,516,275** in state funding to Berrien County

System moved to a **public defender office** in 2017, handling most felonies while maintaining contracts with local attorneys for misdemeanor cases and overflow work.



Assessing the Impact of Standards 1-4

- Collection of financial and compliance information through quarterly reporting
 - Identify attorneys taking appointed cases in each system across the state;
 - Number of indigent defense cases in the state;
 - Whether counsel is being provided at first appearance in all cases;
 - Whether experts and investigators being provided consistent with system plan;
 - Whether attorneys are attending Standard 1 training;
 - Whether private meeting space exists for attorneys to meet with in and out of custody clients.

Assessing the Impact of Standards 1-4

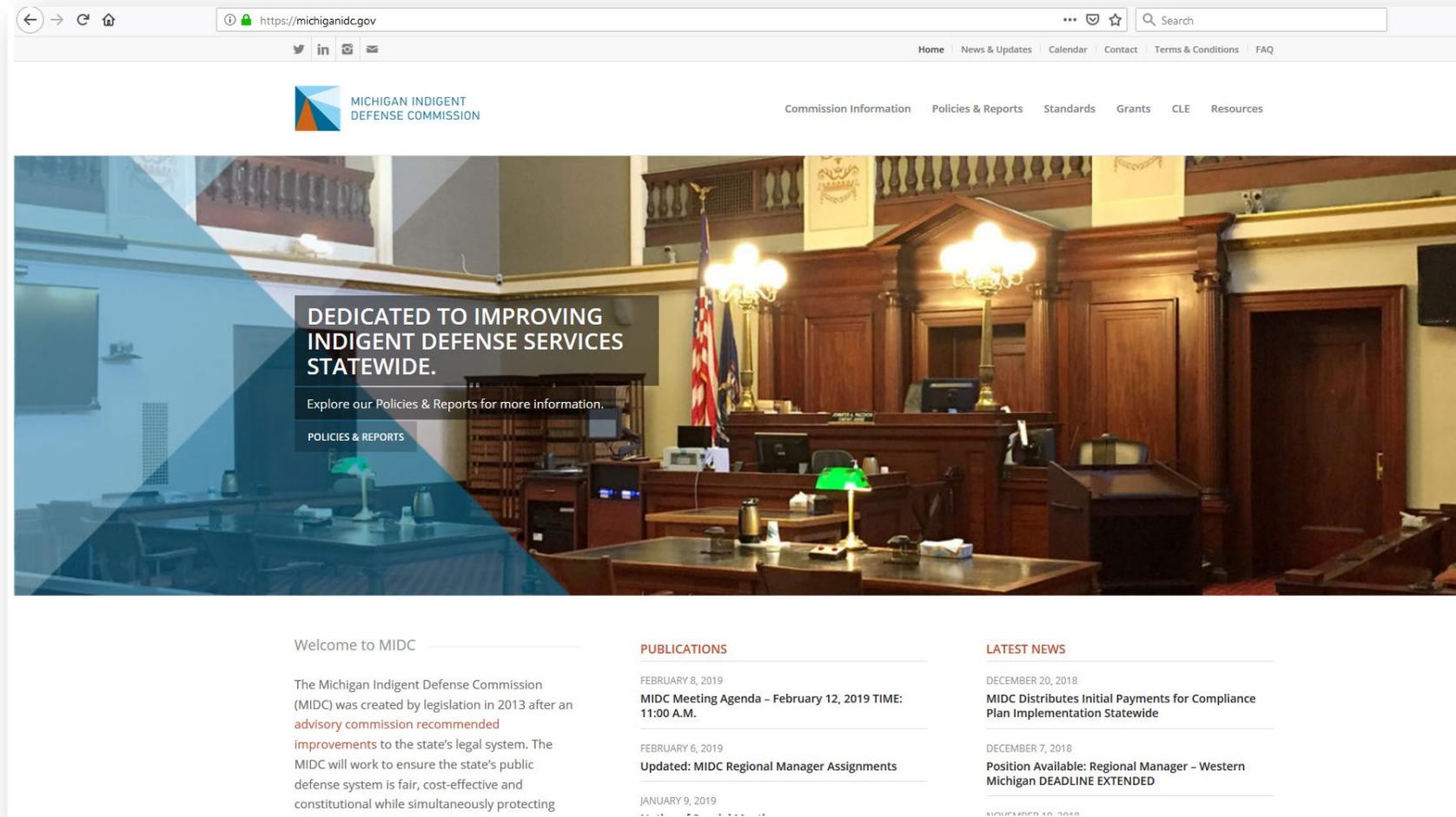
- Court watching in local systems
- Authorized by statute to audit local systems
- MIDC complaints process through website
- Standards Implementation Study – two-year study of the implementation of the standards

Next Standards

- **Standard 5** - Delivery of services is independent of the judiciary. MCL 780.991(1)(a);
- **Standard 6** - Caseloads are controlled to permit effective representation. MCL 780.991(2)(b);
- **Standard 7** - An attorney has the training and experience that matches the complexity of the allegations against their client. MCL 780.991(2)(c);
- **Standard 8** - Economic disincentives or incentives that impair defense counsel's ability to provide effective representation shall be avoided. MCL 780.991(2)(b).

Next Steps...

- Data Collection;
- Planning and Support of Local Partners;
- Increasing Efficiency of Compliance Planning and Grant Management Processes;
- Developing Metrics and Standards for Indigent Defense.



Find out more at michiganidc.gov