



MICHIGAN INDIGENT  
DEFENSE COMMISSION

Michigan Council of  
Professional Investigators  
February 2022

MIDC Regional Manager Susan Prentice-Sao

US Constitution – Sixth Amendment

Why are there  
indigent defense  
attorneys?

## US Constitution - Sixth Amendment

**“In all criminal prosecutions, the accused shall enjoy the right**  
to a speedy and public trial,  
by an impartial jury of the State and district  
wherein the crime shall have been committed,  
which district shall have been previously ascertained by law,  
and to be informed of the nature and cause of the accusation;  
to be confronted with the witnesses against him;  
to have compulsory process for obtaining witnesses in his favor, and  
**to have the Assistance of Counsel for his defense.”**



## Gideon v. Wainwright (1963)

States are required under the Sixth Amendment to provide counsel to defendants in criminal cases who are unable to afford their own attorneys.

The Evolution of the MIDC

How did MIDC  
evolve?

## The Evolution of the MIDC

- **2007**

ACLU filed *Duncan v. State of Michigan*, arguing that the State was denying constitutionally adequate defense to indigent criminal defendants.

- **2008**

*A Race to the Bottom Speed and Savings Over Due Process: A Constitutional Crisis* determined that Michigan was failing to provide constitutionally mandated effective assistance of counsel to people who could not afford to hire an attorney.

## The Evolution of the MIDC Cont.

- **2011**

Indigent Defense Advisory Commission was convened and took testimony from a variety of stakeholders in the criminal justice system. As a result, it 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.**

## The Evolution of the MIDC Cont.

### • 2013

#### Michigan Indigent Defense Commission

- Setting minimum standards
- Designing and approving compliance plans
- Funding and implementing standards
- Collecting and compiling data

### • 2018

Standards approved, plans submitted, and funding allocated.  
Implementation began!

MIDC – Michigan Indigent Defense Commission

Who are we?

# MIDC – Michigan Indigent Defense Commission

19 Commissioners

15 Staff Members



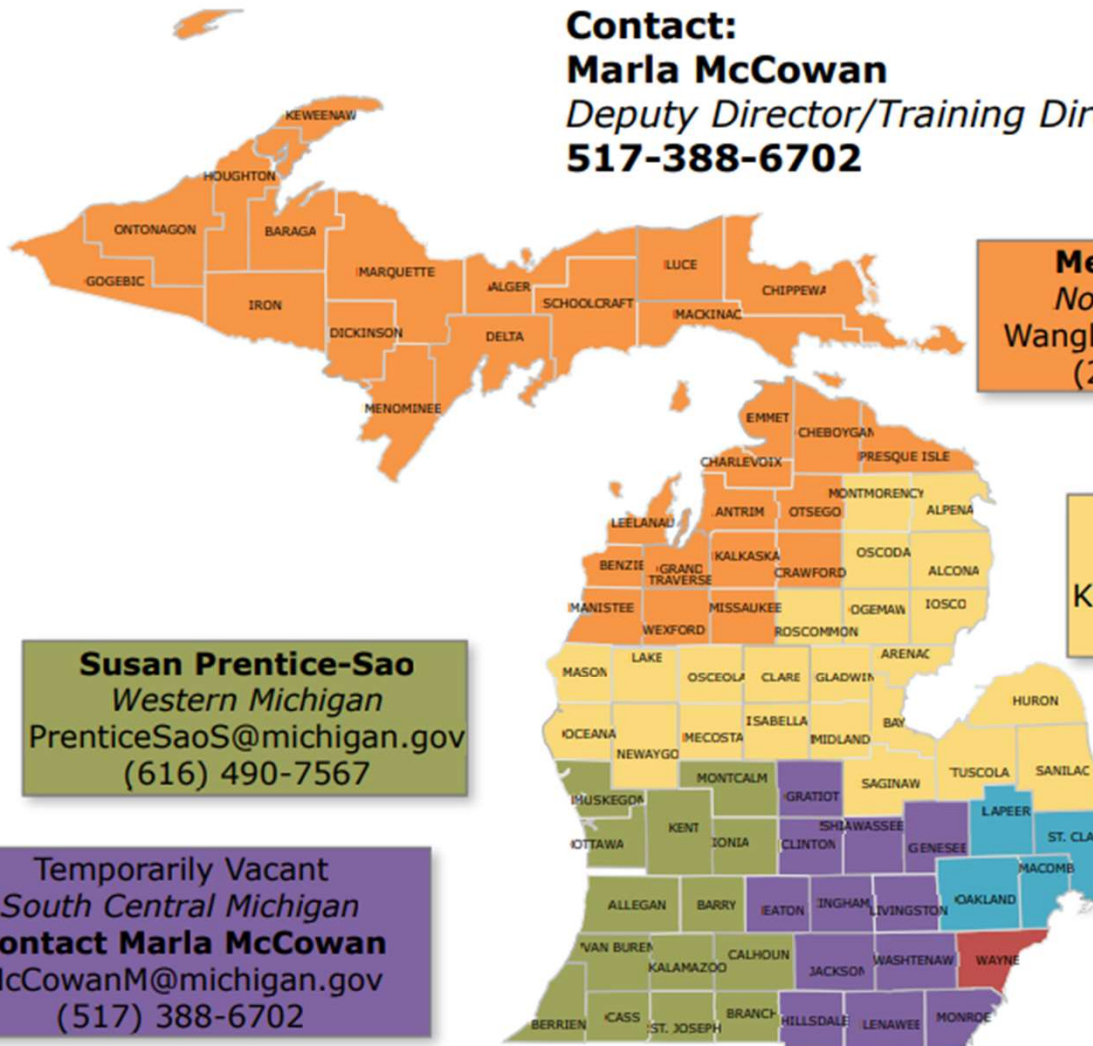
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MIDC – Standards

# What are standards?

# MIDC - Standards

## Training

Require training and education of counsel

## Initial Interview

Attorneys must have an initial client meeting as soon as practicable

## Investigators & Experts

Encourage the use of investigation and experts

## CAFA

Provide counsel at first appearance and other critical stages

## Independence

Independent from the judiciary

Standard 1 – Training

# Standard 1 Training

# Why is training important?



Standard 2 – Initial Interview

# Standard 2

# Initial Interview

## Standard 2 – Initial Interview

- Timing and Purpose of the Interview
- Setting of the Interview
- Preparation

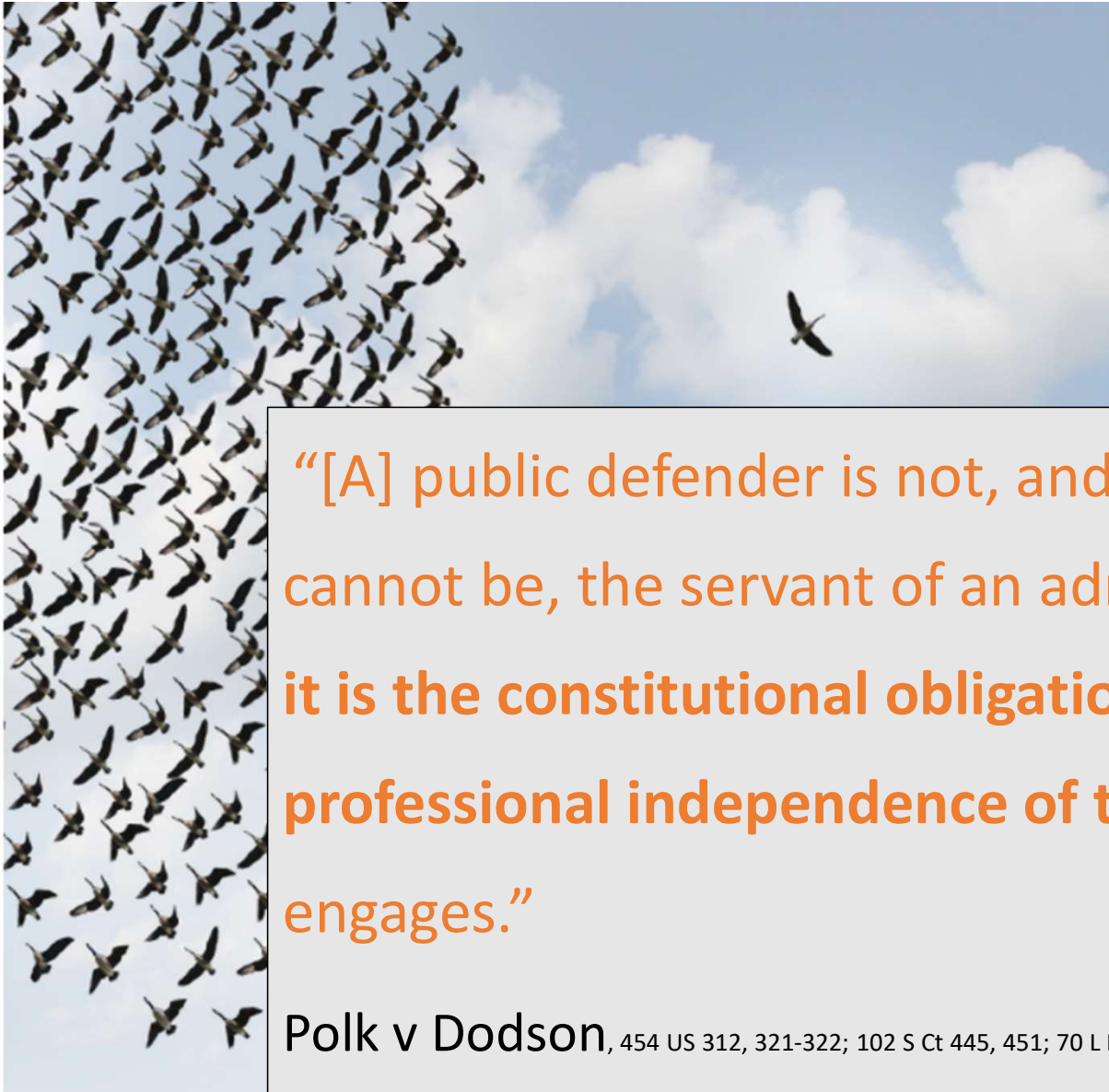
Standard 4 – Counsel At First Appearance

Standard 4

CAFA

Standard 5 – Independence from the Judiciary

# Standard 5 Independence from the Judiciary



## Independence

“[A] public defender is not, and by nature of his function cannot be, the servant of an administrative superior . . . [and] **it is the constitutional obligation of the State to respect the professional independence of the public defenders whom it engages.**”

**Polk v Dodson**, 454 US 312, 321-322; 102 S Ct 445, 451; 70 L Ed 2d 509 (1981)

Standard 3 – Investigation and Experts

# Standard 3 Investigation & Experts

Standard 3 – Investigation and Experts

# Standard 3

# Experts

## Standard 3 – Experts

# Funding for Experts

**FY21 \$3,175,810**

Standard 3 – Investigation and Experts

# Standard 3

# Investigators

Standard 3 – Investigators

**Funding for  
Contract Investigators**

**FY21 \$1,419,240**

When should these requests be made?



Standard 3 – Investigation

**Prompt requests make a  
difference.**

Promptness  
**WINS**



## Standard 3 – Investigation

### **REMEMBER:**

No matter how **prompt**  
always after the  
police and prosecution.

Standard 3 – Investigation

Promptness = Prep For

Bond Determination Hearings

Preliminary Hearing

Pretrial

Standard 3 – Investigation

**Prep For:**

**Bond Determination Hearings**

Standard 3 – Investigation

Prep For:

Preliminary Hearing

## Standard 3 – Investigation

Prep For:

Pretrial

# Continuous Investigation

Before

During

After

# Trial

# Duty

Criminal Defense  
Investigations

# Attorney v. Investigator



## Standard 3 – Investigation

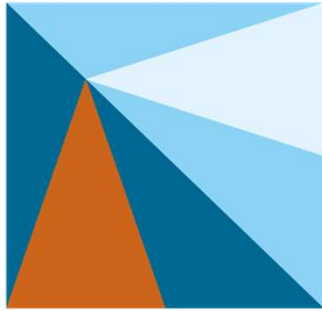
“I want to plea.”

A client’s desire to plead guilty does not negate an attorney’s responsibility to investigate.

## Standard 3 – Investigation

“I don’t want an investigator.”

A client’s desire to not have an investigator does not negate an attorney’s responsibility to investigate.



MICHIGAN INDIGENT  
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# Questions?

[www.michiganidc.gov](http://www.michiganidc.gov)

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