



Public Defense Workloads: New Mexico and the National Context

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Deason Criminal Justice Reform Center
June 22, 2026

Innovative Criminal Justice Reform at Deason Center

Right to Counsel

- Public Defense
- Prompt Access to Counsel
- Ethical Workloads
- System Design

Rural Justice

- Criminal Law Deserts
- System Mapping
- State Partnerships
- Pilot Day One Office

Prosecutorial Discretion

- Screening and Charging
- Best Practices
- D.A. Consultations
- Charging Delays



Impact

39

States and Territories

working with our team to implement meaningful, sustainable reform

33

Publications

including reports, policy papers, and scholarly articles

114

Events

featuring expert conversations on criminal justice reform

221

Students

Learning to research and advocate advocating for innovative solutions

Protecting Core Constitutional Rights

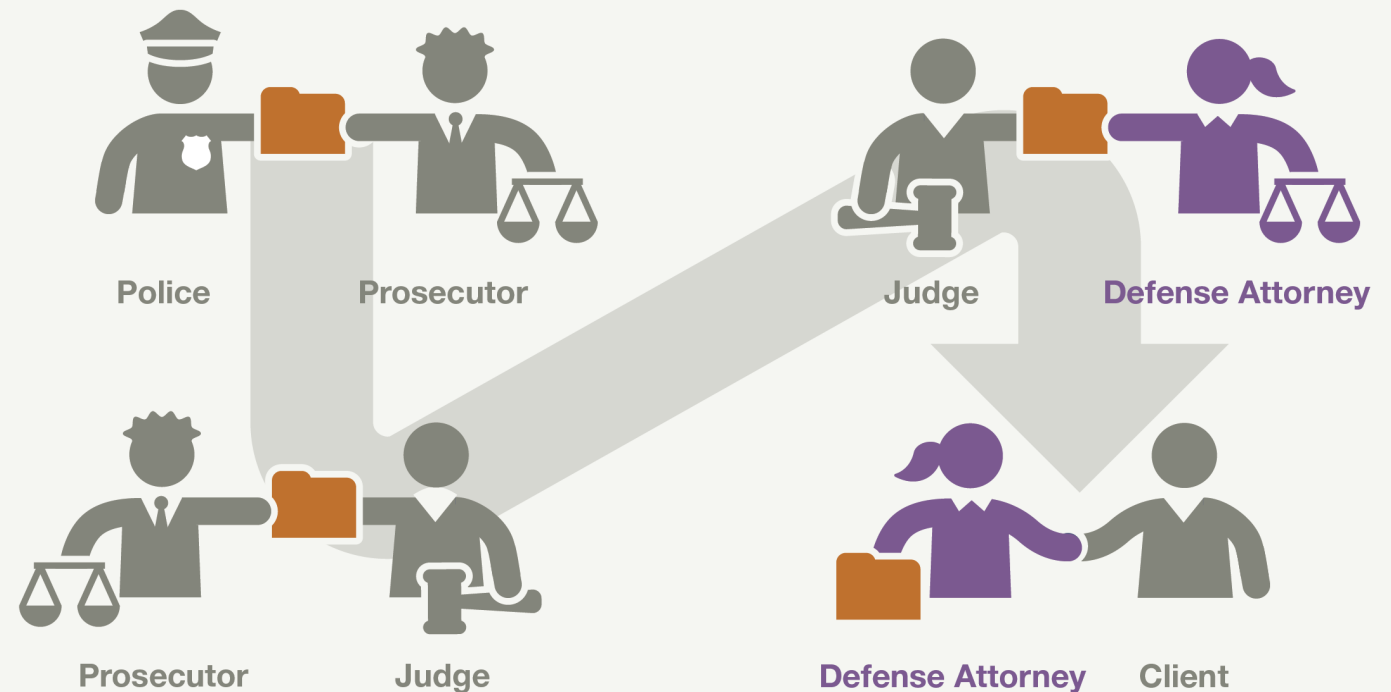
- **Presumption of Innocence**
- **Liberty**
- **Due Process**
- **Right to Counsel**



Constitutional and Ethical Limitations on Public Defense Workloads

Public Defense Workloads

Public defense providers are seldom in control of the number of cases they are assigned. Their caseload depends upon arrest rates, prosecutorial charging decisions, and judicial assignments.



Constitutional Obligations:

Strickland v. Washington (1984): “The proper measure of attorney performance . . . [is] **reasonably effective assistance** of counsel pursuant to prevailing professional norms.”

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Competence (16-101) includes:

“inquiry into and analysis of the factual and legal elements of the problem . . . It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake[.]”

Diligence (16-103) includes:

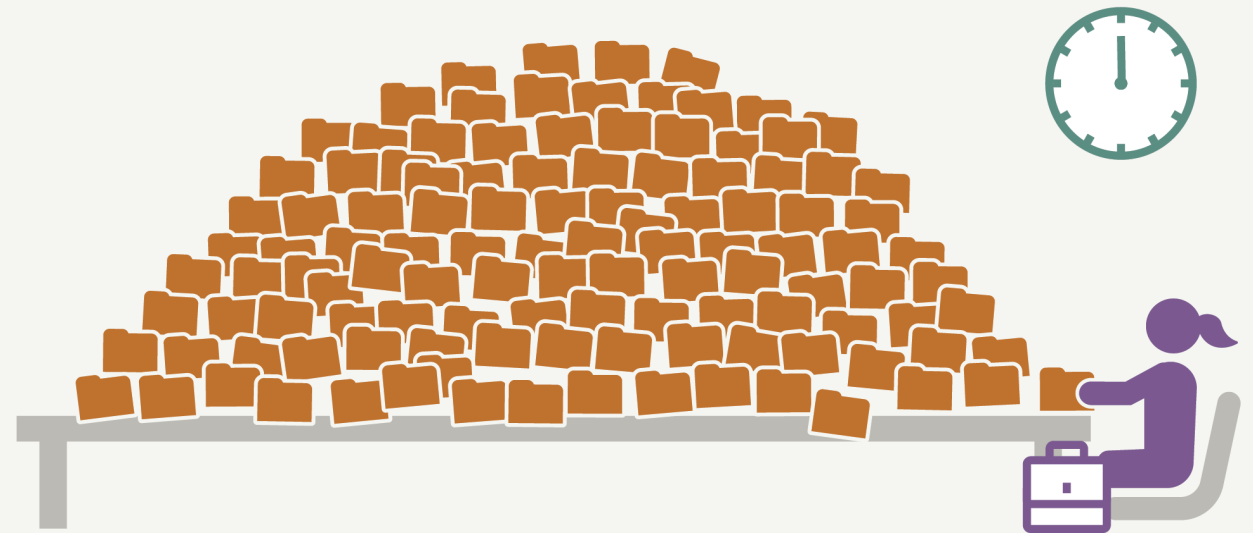
- **“A lawyer’s workload must be controlled so that each matter can be handled competently.”**
- **“Reasonable promptness” as a “client’s interests often can be adversely affected by the passage of time or the change of conditions.”**

Practice Standards

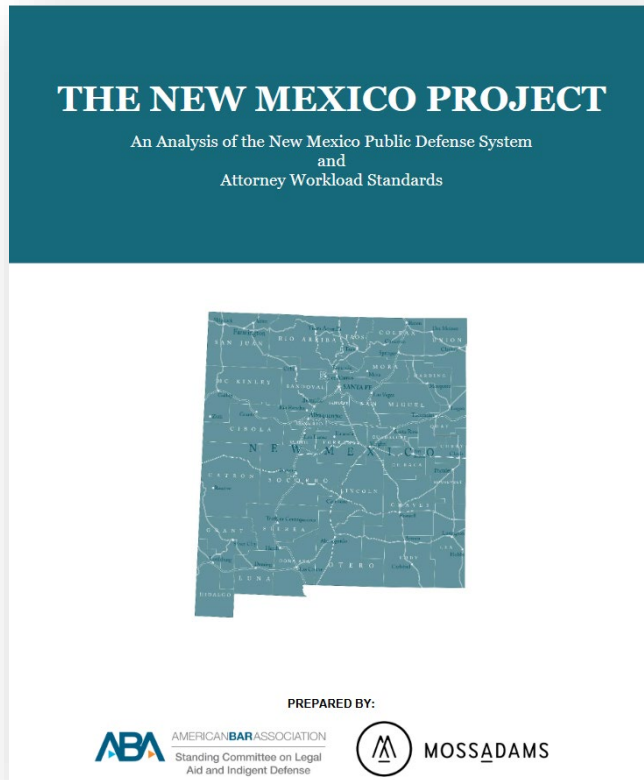
- **Prompt and regular communications**
- **Review of evidence**
- **Independent investigation**
- **Legal research**
- **Advocacy**

Public Defense Workloads

When a lawyer has too many cases, they cannot provide competent and diligent representation to all of their clients. This puts the lawyer at risk of violating their ethical obligations, as well as the client's constitutional right to reasonably effective representation.

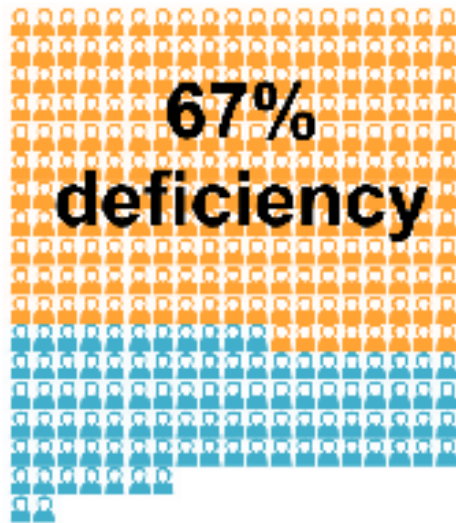


New Mexico's Efforts to Address Public Defense Workloads



- **Local Experts**
 - **Public defense attorneys**
 - **Contract counsel**
 - **Private defense lawyers**
- **Establishes time needed for effective assistance of counsel**

New Mexico faces a critical shortage of public defense attorneys



- A very conservative analysis shows that based on average annual caseload, the state needs an *additional* 602 full-time attorneys – more than twice its current level - to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment.
- In other words, with a consistent annual workload, New Mexico has only 33% of the public defense attorneys it needs to handle its adult and juvenile caseloads.

ABA SCLAID and Moss Adams, The New Mexico Project

https://www.americanbar.org/groups/legal_aid_indigent_defense/indigent_defense_systems_improvement/publications/nm-project/

The New Mexico Public Defense System 5-Year Plan to Reduce Representation Deficiency

September 26, 2022



PREPARED BY:



MOSSADAMS



www.jfa-associates.com

Transition Plan: Contractor Hourly Rate Model

NEW MEXICO LAW OFFICES OF THE PUBLIC DEFENDER



OCTOBER 10, 2024

PREPARED BY MOSS ADAMS LLP

Impact of Excessive Workloads

Impact of Excessive Workload

Excessive Workloads Feed Attorney Shortages



“People burn out not because of the work, but because you don’t have enough time to work well.”

Brink et al., *California Public Defense Workloads and Staffing* (2025), SMU Deason Center
<https://scholar.smu.edu/deasoncenter/19/>

“When an existing workload does become excessive, the lawyer must reduce it to the extent that what remains to be done can be handled in full compliance with the Rules.”

- ABA Ethics Opinion 06-441

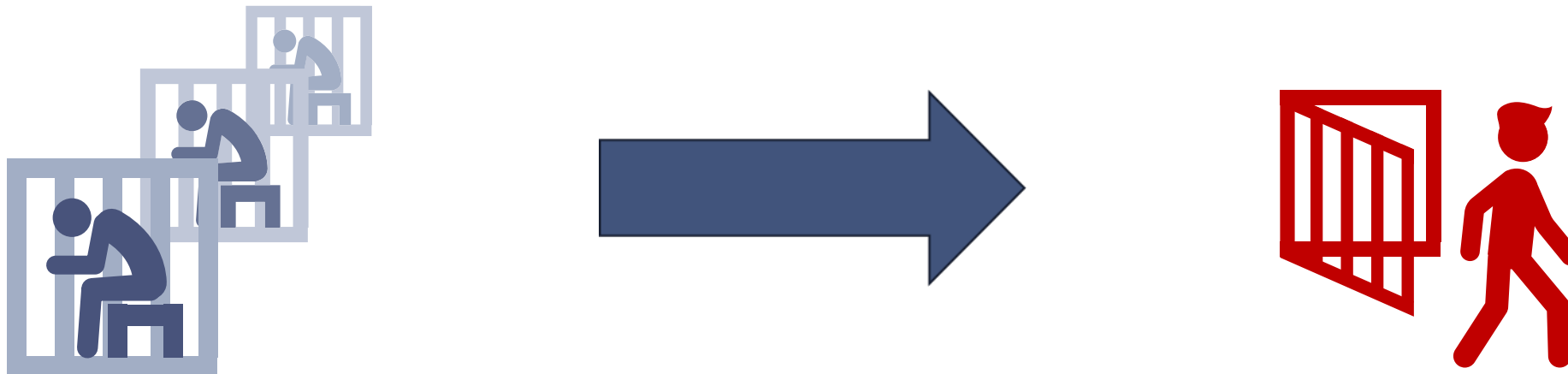
Crisis Point: No counsel available



Denial of 6th Amendment Right to Counsel



Denial of 6th Amendment Right to Counsel Initial Remedy = Release



Impact of Excessive Workload



“Our law assumes that our state governments would pay to provide counsel to indigent defendants. Our law assumes that state governments would want to swiftly bring those proven guilty to justice, and to promptly release those who do not merit prosecution.”

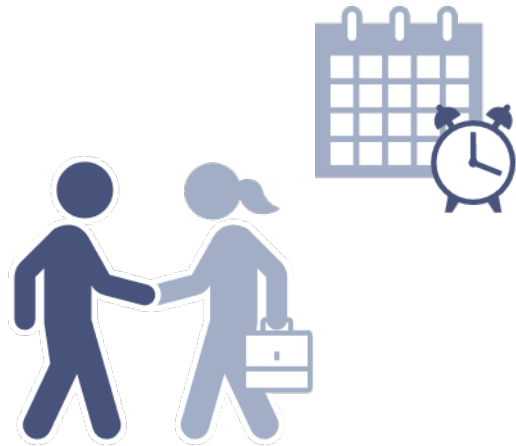
- *Beshert v. Oregon* (9th Cir. 2024)

Upheld preliminary injunction requiring:

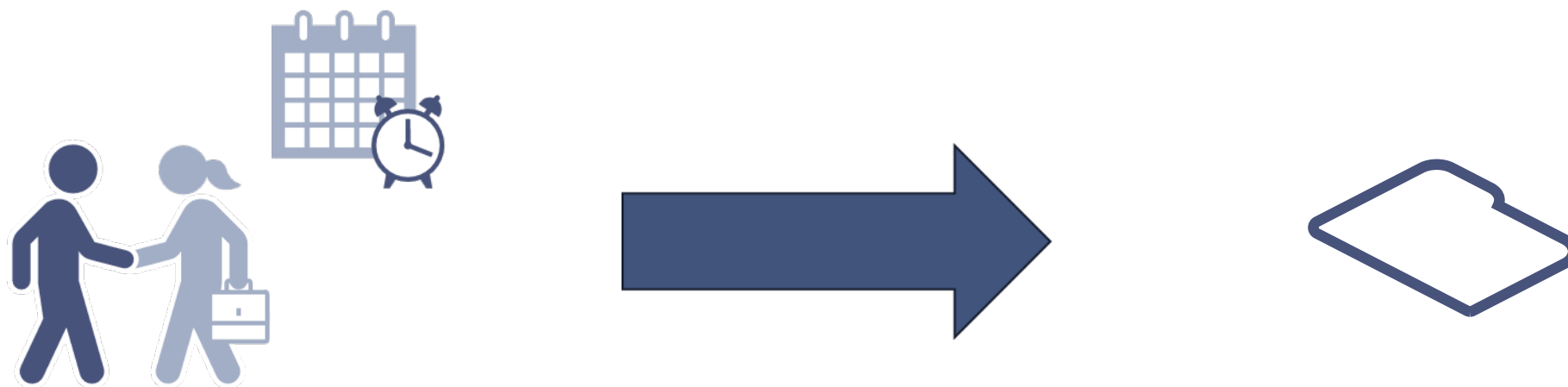
- “counsel . . . be provided within seven days of the initial appearance,”
- “[f]ailing this, defendants must be released from custody, subject to reasonable conditions imposed by [Oregon] Circuit Court judges.”

- ***Beshert v. Oregon* (9th Cir. 2024)**

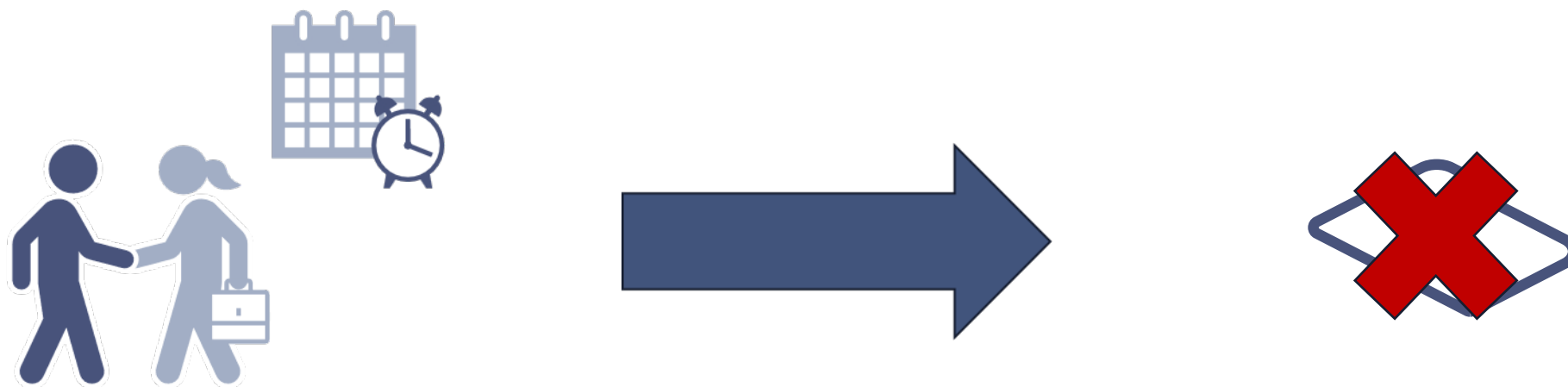
Prolonged Denial of Right to Counsel



Prolonged Denial of Right to Counsel Remedy = Dismissal Without Prejudice



Prolonged Denial of Right to Counsel Remedy = Dismissal Without Prejudice



Impact of Excessive Workload



“There must be a limit on the amount of time that the state may maintain a criminal prosecution without appointing counsel for an eligible defendant, and this case requires us to set that limit.”

- *State v. Roberts* (OR Sup. Ct. 2026)

Oregon must dismiss more than 1,400 criminal cases due to attorney shortage, court rules

Severe lack of public defenders has meant people charged with crimes have been routinely unable to fight their cases



📹 The court ruled dismissals are required if the state failed to provide counsel within 60 days after an arraignment for a misdemeanor and within 90 days for a felony. Photograph: Dennis

Addressing Public Defense Workloads

Michigan



Michigan Standards

- 1: Education and Training of Defense Counsel
- 2: Initial Interview
- 3: Investigation and Experts
- 4: Counsel at First Appearance and Other Critical Stages
- 5: Independence from the Judiciary
- 6: Indigent Defense Workloads**
- 7: Qualification and Review of Counsel
- 8: Attorney Compensation
- 9: Indigency

| | | | | | | | | |
|------------|------------|------------|------------|------------|-------------------|------------|------------|-----------|
| Standard 1 | Standard 2 | Standard 3 | Standard 4 | Standard 5 | Standard 6 | Standard 7 | Standard 8 | Indigency |
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Indigent Defense Workloads

MIDC Staff has prepared [Resources for Calculating Caseloads](#)

NEW: [Standard 6 Tracking Answers to FAQs](#)

Read about the MIDC and RAND caseload study here: [Final RAND Report Caseloads September 2019](#) (pdf)

[LARA Order approving Standards 6 and 7 dated October 24, 2023](#)

The MIDC Act provides that “[d]efense counsel’s workload is controlled to permit effective representation.” MCL 780.991(2)(b). The United States Supreme Court has held that the constitutional right to counsel guaranteed by the Sixth Amendment includes the right to the effective assistance of counsel. The mere presence of a lawyer at a trial “is not enough to satisfy the constitutional command.” *Strickland v Washington*, 466 US 668, 685; 104 S Ct 2052, 2063; 80 L Ed 2d 674 (1984).

Further, the Fifth Principle of The American Bar Association’s Ten Principles of a Public Defense Delivery System provides that a public defense system, in order to provide effective assistance of counsel, must ensure that “[d]efense counsel’s workload is controlled to permit the rendering of quality representation.”

The MIDC proposes a minimum standard for indigent defense workloads:

The caseload of indigent defense attorneys shall allow each lawyer to give each client the time and effort necessary to ensure effective representation. Neither defender organizations, county offices, contract attorneys, nor assigned counsel should accept workloads that, by reason of their excessive size, interfere with the

Reporting Questions:

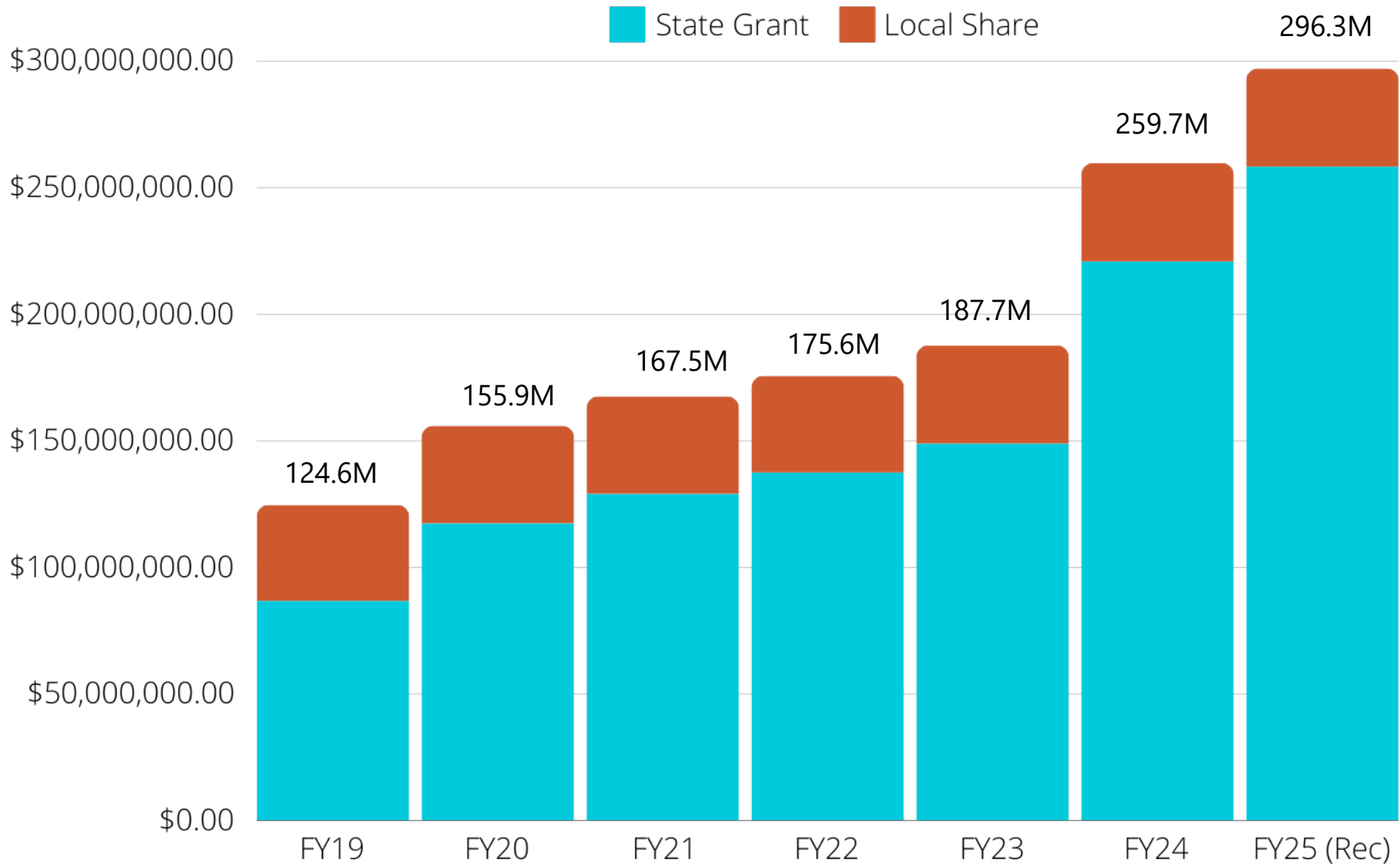
- **Responsibility for monitoring and reporting caseloads**
- **How will attorneys be notified when they have reached their caseload cap?**
- **What action will be taken when the caseload cap is reached?**

Appropriations Requirements

“The legislature shall appropriate to the MIDC the additional funds necessary for a system to meet and maintain those minimum standards.”

“A system’s duty of compliance with 1 or more standards . . . Is contingent upon receipt of a grant in the amount sufficient to cover that particular standards or standards contained in the plan and cost analysis approved by MIDC.”

State & Local Appropriations



Local Share:
Average local cost prior to enactment of MIDC, increased by 3% or CPI, whichever is less. Hovers around \$38M annually.



- **Had NAC standards**
 - **300-400 Misdemeanors**
 - **150 Felonies**
- **Adopted NPDWS Standards**
 - **March 2024: Washington Bar Association adopts**
 - **Argument focused on recruitment and retention**
 - **Board of Governors approved 12-1**
 - **To be implemented by 2027**

Supreme Court consideration of NPDWS

- **Two hearings**
- **Over 100 written submissions**

June 2025: State Supreme Court Interim Order

- **Takes effect in 2026**
- **Up to 10 years to implement**
- **Set case credits but did not mandate specific case weights**
- **Must reduce caseloads by 10% each year**

Commission on Court Appointed Lawyers

- **Standards = Maximum Case Assignments**
 - 17 different case types based on Indiana Workload Study
- **Must be met for counties to receive state funding toward indigent defense**
 - **State reimburses counties for 40% of applicable cases**



Conclusion

A large, solid blue silhouette of the state of New Mexico, centered on the page.

New Mexico



Questions?

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