



State Appellate Defender Office

3031 W. Grand Blvd., Ste. 450, Detroit, MI 48202
(Phone) 313.256.9833 (Client calls) 313.256.9822
(Fax) 313.263.0042 www.sado.org

Jonathan Sacks
Director

Marilena David-Martin
Deputy Director

Julianne Cuneo
Chief Investigator

Katherine Marcuz
Managing Attorney, Direct Appeals Unit

Tina Olson
Managing Attorney, Juvenile Lifer Unit

Jessica Zimbelman
Managing Attorney, Direct Appeals Unit

The State Appellate Defender Office (SADO) fulfills the statutory requirements of the Appellate Defender Act (MCL 780.712) and the Sixth Amendment of the United States Constitution to represent poor people appealing their criminal convictions.

SADO consists of three divisions: The public defender division, the Michigan Appellate Assigned Counsel System (MAACS), and the Criminal Defense Resource Center (CDRC). The state-funded public defender represents at least 25% of individuals with pending appeals. Nearly 75% of individuals appealing their convictions are represented by county-funded private attorneys, managed by MAACS. The CDRC provides training to the state's court-appointed trial and appellate counsel, and resources to the public and all system stakeholders.

The Executive Recommendation restores \$360,700 in budget cuts imposed in FY 21 during the COVID-19 crisis from a hiring freeze and spending restrictions. With this restoration of the baseline budget, SADO would return to a budget of approximately \$9.1 million for a staff of attorneys, paralegals, investigators, social workers, and MAACS roster administration. This amount includes general operations and a special Juvenile Lifer Unit. The Executive Recommendation includes \$939,100 for continued funding of the Juvenile Lifer Unit.

SADO has multiple unfilled positions from this hiring freeze. As courts reopen and jury trials restart, SADO will not meet the statutory mandate of the Appellate Defender Act, MCL 780.716(c), to represent 25% of people on appeal without restoration of the baseline budget.

The public defender division of SADO achieves outstanding results for clients by relying on a holistic and client-centered approach to appellate advocacy. However, MAACS roster attorneys face ongoing challenges to secure even minimal funding and resources from counties. Despite extensive improvements achieved in recent years, MAACS lawyers continue to suffer from many of the same structural impediments that trial-level indigent defense counsel faced in Michigan prior to the establishment of the Michigan Indigent Defense Commission. A long-term budget strategy must address this difference.

State Appellate Defender Office – Public Defender Division

The public defender division of SADO has a staff of two managing attorneys, sixteen attorneys, one investigator, and one mitigation specialist, who achieve outstanding results for our clients:

- SADO's post-conviction investigation and litigation has helped exonerate at least twenty wrongfully imprisoned clients in recent years, including:
 - *James Grissom*: Sexual assault conviction vacated after investigation revealed a pattern of fabricated allegations.
 - *Derrick Bunkley*: Attempted murder conviction vacated where investigation of alibi on social media and cell phone evidence showed his innocence.
 - *Konrad Montgomery*: Attempted murder conviction vacated when investigation revealed cell-tower evidence had been misrepresented and inadequately challenged at trial.
 - *Gregory Fisher*: Sexual assault conviction vacated based on DNA exclusion.
 - *Anthony Legion*: Twenty-year-old murder conviction vacated after investigation in partnership with the Wayne County Prosecutor's Office Conviction Integrity Unit revealed police misconduct, discovery violations, and perjured testimony.

- SADO attorneys regularly secure new trials for clients, holding the criminal legal system accountable and helping to ensure fairness in future trials. Some reasons clients have been granted new trials in the last year include the failure to call an expert witness and prosecutorial misconduct.

- SADO's success in correcting sentencing errors has resulted in a reduction in prison terms by nearly 186 years in 2020. Other sentencing relief includes reductions in financial obligations, improper probation conditions, and challenges to collateral consequences such as improper sex offender registration and lifetime electronic monitoring. SADO achieved this relief for clients during the pandemic.

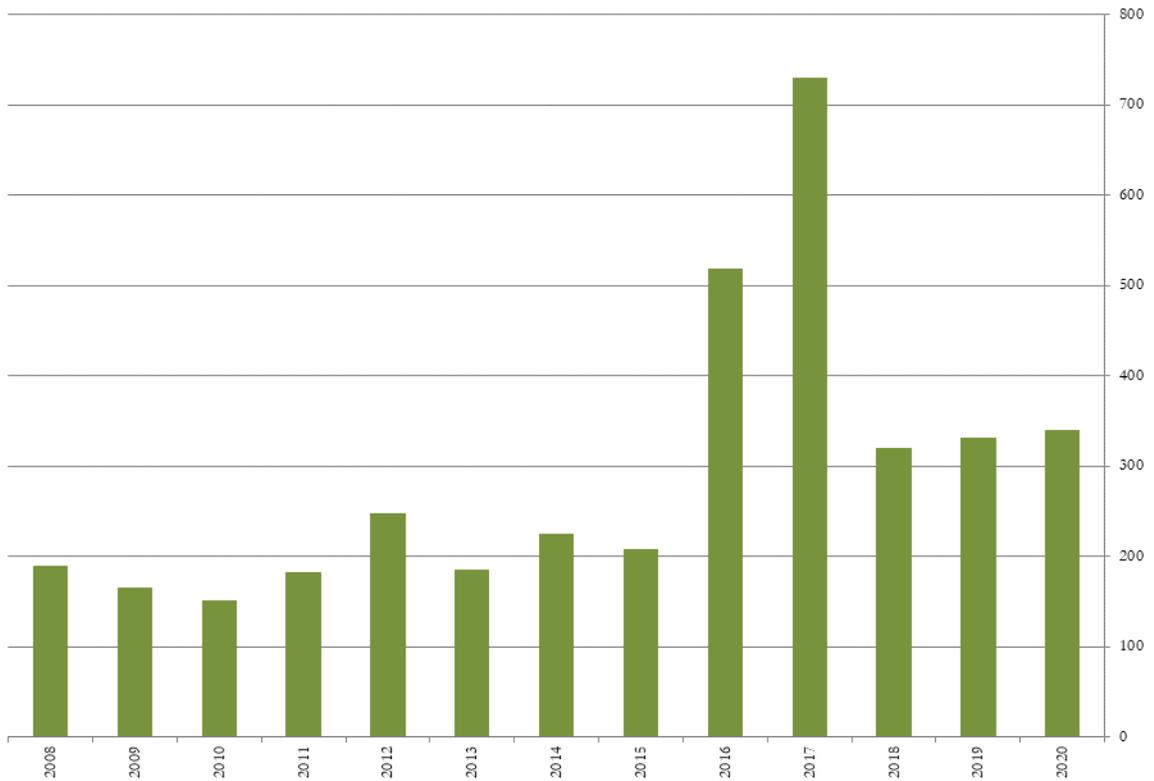
- SADO attorneys regularly appear before the Michigan Supreme Court, which helps shape the law to ensure due process and a fairer criminal legal system. SADO currently has eleven cases awaiting oral argument in the Michigan Supreme Court. Recent opinions from the Court have resulted in increased protections under the Fourth Amendment and the assurance that accused people who are indigent have the same access to expert witnesses as those who can afford to retain counsel.

- SADO regularly pursues successful and innovative grant-funded projects, such as a social worker sentencing project, an expansion of reentry assistance to formerly incarcerated individuals, special units to review cases involving the now closed Detroit Police Crime Lab, and a special unit for investigation of actual innocence claims in the first stages of the appeal. This year SADO is applying for a grant to improve the quality of juvenile appellate representation.

The work of SADO's public defenders and staff provide taxpayers with excellent return on investment.

- When our clients serve shorter sentences, the State of Michigan saves \$38,716 per year in costs of incarceration. Based on this amount, SADO's work obtaining sentencing relief and correcting trial errors historically has reduced statewide prison costs by over \$5 million each year, about \$280,000 per staff attorney with no apparent reduction in public safety.
- Including the Juvenile Lifer Unit, SADO attorneys saved the state approximately \$12.5 million in prison costs for 2020, \$6.6 million from appeals representation, and \$5.9 million for Juvenile Lifer Unit conversions to a term of years sentence from life without parole sentences.

Total Years Reduced from Minimum Prison Sentence Terms



Prison Sentence Reductions		
Year	Total Years Reduced from Prison Terms	Estimated Savings to State of Michigan
2020	339	\$12,570,120
2019	331	\$12,273,480
2018	319	\$11,487,509
2017	730	\$26,357,380
2016	518	\$18,214,842
2015	207	\$7,237,134
2014	225	\$7,898,093
2013	184	\$6,311,025
2012	247	\$8,502,518
2011	182	\$6,287,600
2010	151	\$5,183,566
Total	3787	\$134,150,755

* These charts reflect relief for both direct appeal clients and juvenile lifer clients. From 2018 to 2020, there were far fewer sentencing hearings for juvenile lifers first because of a wait for Michigan Supreme Court guidance, the shift to contested hearings, where prosecutors seek life without parole sentences, and then due to COVID-19 slowdowns.

An essential part of SADO’s mission is to provide resources through support services and training to assigned criminal defense attorneys. This is especially important with training requirements linked to trial indigent defense reform.

- **Resources:** CDRC produces numerous resources for criminal justice professionals, all of which are accessible on SADO’s website. Some of the most popular include defender books and manuals, appellate summaries, a brief bank, the Criminal Defense Newsletter, an online criminal defense attorney forum, databases containing expert witness transcripts, and reentry service providers, and self-help resources covering child support, expungement, collateral consequences, pro per manuals, and sample pleadings.
- **Trainings:** CDRC’s primary focus is to provide high-quality training to attorneys handling indigent appeals at SADO and MAACS. In addition to that target group, CDRC hosts dozens of free trainings at various locations throughout the state and via online webinars for trial-level practitioners and other criminal justice stakeholders. Trainings are recorded and archived on the website for later viewing.
- Recognizing the training success and reputation of the CDRC, many compliance plans submitted by local funding units to the Michigan Indigent Defense Commission request CDRC membership and services to meet new training requirements for attorneys.

Juvenile Lifer Unit

A unit of lawyers and investigators at SADO represents clients serving life without parole sentences for offenses committed as children. These clients require new sentencing hearings because they are serving mandatory life sentences in violation of the constitutional prohibition against cruel and unusual punishment.

The Juvenile Lifer Unit consists of one managing attorney, five attorneys, four investigators, and one reentry coordinator. This number includes in-kind personnel contributions from SADO.

Background

- A decision of the United States Supreme Court in 2016 created an extraordinary one-time constitutional crisis involving 364 children serving life without parole sentences in Michigan. [Montgomery v. Louisiana](#) requires resentencing of all people serving mandatory sentences of life without parole for offenses committed as youth because the sentences violate the Eighth Amendment ban on cruel and unusual punishment.
- SADO's Juvenile Lifer Unit represents 193 of Michigan's 364 juvenile lifers and 113 of these clients have now received new sentences, 107 to a term of years sentence offering the opportunity for parole.
- Michigan lags [behind](#) the rest of the country. Twenty-four states and the District of Columbia ban juvenile life without parole, and six more states have no juveniles serving life without parole sentences. On January 9, 2021, Ohio became the latest state to abolish this sentence.

Chronology of the Unit

- The work started in 2016, immediately after the [Montgomery](#) decision. Michigan prosecutors had six months to decide whether to seek life without parole against individuals or to agree to resentencing to a term of years. The SADO Juvenile Lifer Unit was formed, and it began the massive task of gathering decades-old files and records, investigating cases, consulting with clients, and presenting mitigation packages to prosecutors as they deliberated whether to seek a term of years sentence, or life without parole again.
- Despite the United States Supreme Court's admonition that life without parole sentences for juveniles should be "rare," Michigan prosecutors decided to seek the harshest possible sentences against 229 of the 364 individuals serving life without parole sentences for crimes committed as children. Nearly 70%, or 132 of SADO's clients, were originally designated for life without parole sentences by prosecutors. During FY 2017 and 2018 attorneys started to conduct resentencing hearings for those designated for term of years sentences.

- From 2018 to 2020, the Michigan Supreme Court resolved significant legal questions on the process for resentencing hearings. The most contested, intricate, and time-consuming sentencing hearings for juvenile lifers began in 2018, where SADO advocated for sentences offering the opportunity for parole and prosecutors advocated for life without parole.
- **Advocacy during COVID-19** Many of SADO's juvenile lifer clients are among the older and more vulnerable in the Michigan Department of Corrections, and continued advocacy during the COVID-19 crisis has been critical. One of our clients, [William Garrison](#), who was no longer serving a life sentence due to a successful hearing died of COVID-19 in April, prior to his scheduled release.

With the advent of the COVID-19 crisis, SADO Juvenile Lifer Unit attorneys and investigators adapted to send electronic messages to clients, interview clients via Zoom, and conduct remote fieldwork. In one representative six week period, attorneys filed more than twenty-five major court pleadings.

Since March 16, 2020, the JLU team successfully negotiated nine term of years sentences for clients. Attorneys also conducted four contested hearings via Zoom, in person, or combined. In three of these cases, the courts rejected the prosecutor's requests for life without parole sentences and instead imposed a term of years sentence. A decision in the fourth case is outstanding.

Snapshot of Results: 2016-2020

- 107 SADO clients have received term of years sentences. These new sentences have an average length of 31.7 years. 60 clients have been released on parole or discharged from the Michigan Department of Corrections. 66 clients now await new contested sentencing hearings, with the rest in other procedural postures.
- There have been 23 contested hearings for SADO clients. Eighteen have resulted in term of years sentences and five resulted in a life without parole sentence, one of which has been already overturned on appeal. A sixth SADO client chose not to contest a life without parole sentence. SADO attorneys also successfully negotiated term of years sentences for 34 clients, where prosecutors initially pushed for life without parole.
- In contrast, non-SADO clients, often without specially trained attorneys and resources, have had 16 life without parole sentences imposed. Because SADO clients generally receive term of years sentences, they are avoiding costly appeals. SADO attorneys have successfully advocated for three new sentencing hearings on appeal, where the original sentencing hearing, handled outside of SADO, was invalidated due to legal error.

- **Savings to the state:**
 - Estimated cumulative number of reduced sentences for clients no longer serving life sentences: 1,402 years
 - Estimated savings in incarceration costs for Juvenile Lifer Unit operations: \$49,300,792
 - **Return on Investment:** 13.6 to 1 (1358%)

Training and Reentry

- Working with social work student interns, SADO's Project Reentry develops Comprehensive Reentry Plans to demonstrate that clients can be safely released and to assist clients for their return to the community. Michael Eagan, former Chair of the Michigan Parole Board has called the work of SADO's Project Reentry an "asset" to their work.
- Project Reentry holds [monthly workshops](#) for our released former clients, and has created both a [Reentry Guidebook](#) and a special COVID-19 [Resource Guide](#). Project Reentry is committed to ensuring that people who have served lengthy prison sentences reenter society safely and securely.
- Through federal grant funding, Project Reentry has expanded assistance to SADO and MAACS clients appealing their convictions.
- The Juvenile Lifer Unit, in partnership with SADO's Criminal Defense Resource Center, has conducted multiple trainings for attorneys in Michigan representing Juvenile Lifer clients. The Unit has also been invited to participate and help instruct at trainings for judges organized by the Michigan Judicial Institute.

Michigan Appellate Assigned Counsel System

MAACS, the system for appointing criminal appellate counsel in all Michigan circuit courts merged with SADO in 2014. Approximately 75% of indigent individuals appealing felony convictions are assigned to the MAACS roster of 150 lawyers.

- **Reforms to benefit trial courts and assigned counsel:** In 2015, after decades of operating under an inefficient assignment model and inadequate resources, MAACS launched a regional assignment process to encourage the trial courts' voluntary adoption of a standardized attorney fee policy. After beginning with 14 trial courts, the pilot grew to include 46 out of 58 trial courts statewide. In 2017, the Supreme Court approved these reforms permanently, and MAACS continues to grow the project to the benefit of trial courts, appointed counsel, and indigent individuals.

- **Roster oversight and training:** MAACS personnel maintain oversight of the quality of the roster, conducting thorough and regular reviews of attorney work product. Since the merger with SADO, failing MAACS roster attorneys have been removed. Partnering with CDRC, MAACS also conducts three regular annual trainings.
- **Litigation support:** MAACS staff provide regular litigation support to roster attorneys and allow greater access to investigators and expert witnesses.
- **Despite these reforms, the MAACS roster still struggles:**
 - Attorney incentives and funding. Counties that have adopted uniform fee schedules compensate attorneys at a rate of \$50 or \$75 per hour, depending on the type and complexity of the appeal. This amount falls far below new Michigan Indigent Defense Commission proposed rates of \$100 to \$120 per hour, which have been implemented for certain trial level indigent defense systems. Counties that have not adopted uniform fee schedules pay even less. Some pay flat fees of less than \$500 or hourly rates of only \$40. In recent years, the MAACS roster has lost several attorneys to new trial public defender offices due to these problematic incentives.
 - Workloads. The Michigan Indigent Defense Commission has proposed workload controls for trial level indigent defense. Although there is a clear need to remove or limit the caseloads of some roster attorneys, caseload and staffing concerns prevent action. Twenty roster attorneys handled more than the maximum caseload of a SADO attorney, based on nationally-recognized standards. MAACS cannot address these concerns until SADO has the capacity to absorb additional cases.
 - Quality. With some exceptions, the quality of representation provided by MAACS roster attorneys does not keep pace with SADO attorneys.

COVID-19 Advocacy

In addition to our day-to-day work, SADO has implemented multiple projects because our clients face grave risks to their health and safety from COVID-19 in MDOC and county jails:

- **Jail Release Advocacy.** Individuals in jail awaiting trial have counsel who can file bond modification motions advocating for their release. In Michigan, the work of the Joint Task Force on Jail and Pre-Trial Incarceration has shown that half of the people incarcerated in county jails are serving sentences. With few exceptions, this group of people lack counsel to file early release motions if they can be safely released.

SADO has worked with Macomb, Wayne, and Oakland Counties to provide advocacy for this neglected group. Each county has appointed SADO for purposes of emergency COVID-19 motions. SADO has coordinated volunteer staff and private attorneys for this advocacy. Over one hundred early release motions have been granted and SADO has secured federal funding to continue this work during the pandemic.

- **Appellate Bond Motions.** SADO attorneys have filed motions for appellate bond where our clients have either a strong issue on appeal or dangerous preexisting or chronic health conditions. Judges have granted multiple motions. MAACS has also successfully worked with roster attorneys on these motions.
- **HYTA Review.** A small group of people serving prison sentences do so under the Holmes Youthful Trainee Act (HYTA). For this group, judges have discretion to modify the sentence and order release. SADO has represented qualifying individuals in Wayne County and judges have ordered early release for two clients.
- **Reentry.** SADO's Project Reentry published a resource guide on reentry during the COVID-19 crisis and hosts virtual meetings and support groups for formerly incarcerated clients.
- **Resources and Training.** SADO's website, www.sado.org, contains a special section for COVID-19 resources. Reentry resources are available for recently released individuals. Loved ones of incarcerated individuals can fill out surveys about conditions in prisons and jails during the crisis, and members of the criminal defense bar can access model motions for early release. A remote training conducted by CDRC on these early release motions drew over 200 participants.

Contact: Jonathan Sacks, Director, State Appellate Defender Office
313-402-5382, jsacks@sado.org