



## State Appellate Defender Office

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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 people appealing their criminal convictions who cannot afford attorneys.

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.

## State Appellate Defender Office – Public Defender Division

**The public defender division of SADO has a staff of two managing attorneys, fifteen attorneys, one investigator, and one mitigation specialist, who achieve outstanding results for the people we represent:**

- 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. Some bases for new trial grants in recent years include the lack of an expert witness, prosecutorial misconduct, and serious constitutional violations.<sup>1</sup>
- SADO's success in correcting sentencing errors has resulted in a reduction in prison terms by almost 201 years in 2021. 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 attorneys regularly appear before the Michigan Supreme Court, which helps shape the law to ensure due process and a fairer criminal legal system. SADO has nineteen cases in the Michigan Supreme Court this term. Recent opinions from the Court have resulted in increased protections under the Fourth Amendment and the assurance that accused people without financial resources have the same access to expert witnesses as those who can afford to retain counsel.<sup>2</sup>
- 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.

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

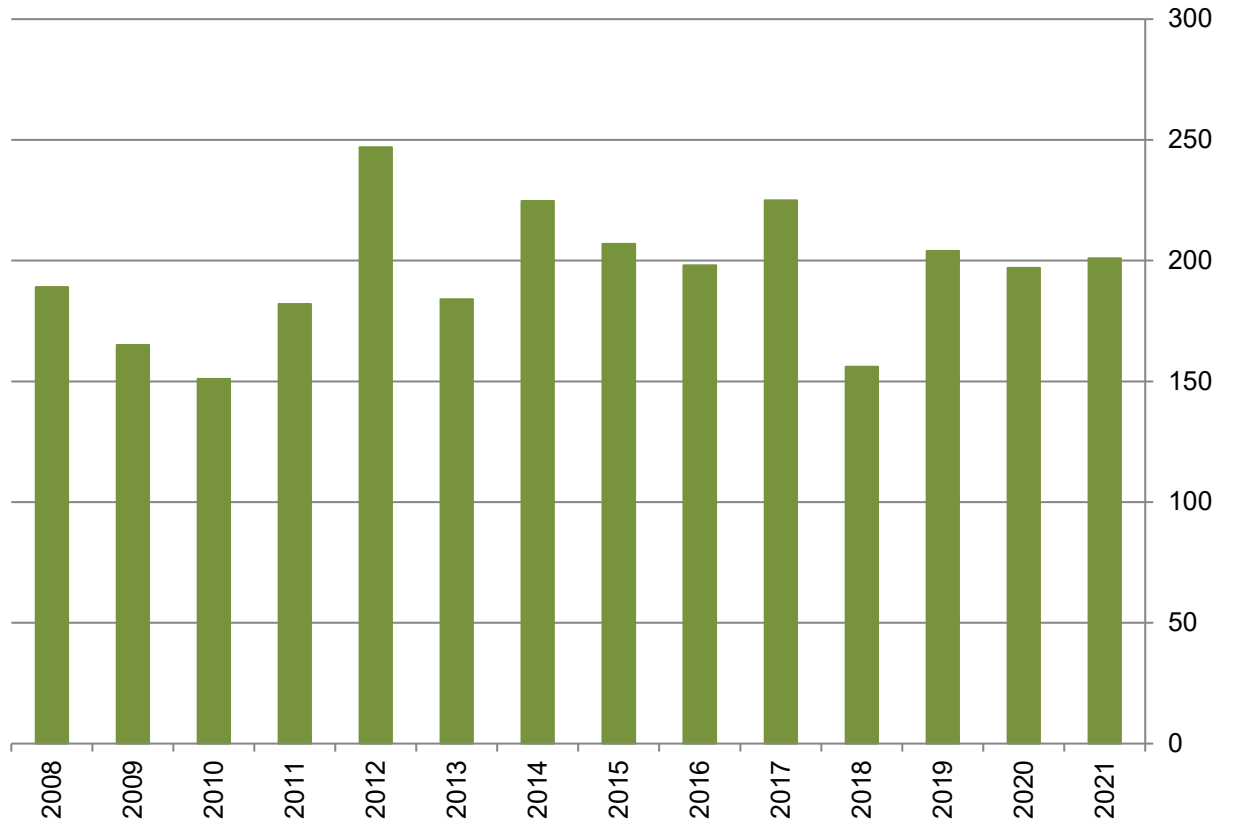
- When our clients serve shorter sentences, the State of Michigan saves \$39,716 per year in costs of incarceration. SADO's work obtaining sentencing relief and correcting trial errors historically has reduced statewide prison costs by over \$6 million each year.
- Including the Juvenile Lifer Unit, SADO attorneys saved the state approximately \$19 million in prison costs for 2021, \$8 million from appeals representation, and \$11 million for Juvenile Lifer Unit conversions to a term of years sentence from life without parole sentences.

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<sup>1</sup> Read about a [new trial](#) granted in 2020.

<sup>2</sup> Read the [unanimous opinion](#) from the Michigan Supreme Court protecting the Fourth Amendment rights of people to be secure in the contents of their cell phones.

### Total Years Reduced from Minimum Prison Sentence Terms



Prison Sentence Reductions		
Year	Total Years Reduced from Minimum Prison Sentence Terms	Estimated Savings to State of Michigan
2021	201	\$7,982,916
2020	197	\$7,824,052
2019	204	\$7,564,320
2018	156	\$5,617,716
2017	225	\$8,123,850
2016	198	\$6,961,086
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
2009	165	\$5,534,678
2008	189	\$6,292,812
<b>Total</b>	<b>2731</b>	<b>\$89,338,448</b>

## 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 mitigation specialists, 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 137 of these clients have now received new sentences, 132 to a term of years sentence offering the opportunity for parole.
- Michigan lags far [behind](#) the rest of the country. Twenty-five states and the District of Columbia ban juvenile life without parole, and seven more states have no juveniles serving life without parole sentences. On January 9, 2021, Ohio became the latest state to abolish this sentence.

## Work 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 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 another life without parole sentence.
- **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 2020, prior to his scheduled release.

Since March 2021, the JLU team successfully negotiated eighteen term of years sentences for clients. Attorneys also conducted five 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. Decisions in two other cases are forthcoming.

### **Snapshot of Results: 2016-2022**

- 132 SADO clients have received term of years sentences. These new sentences have an average length of 31.7 years. 69 clients have been released on parole or discharged from the Michigan Department of Corrections. 34 clients now await new contested sentencing hearings, with the rest in other procedural postures.
- There have been 28 contested hearings for SADO clients. Twenty-one have resulted in term of years sentences, five resulted in a life without parole sentence, and two are pending. The Court of Appeals reversed one of the life without parole sentences. A sixth SADO client chose not to contest a life without parole sentence. SADO attorneys also successfully negotiated term of years sentences for 44 clients, where prosecutors initially pushed for life without parole.
- SADO attorneys have successfully advocated for four new sentencing hearings on appeal, where the original sentencing hearing, handled outside of SADO, was invalidated due to legal error. One client received an agreement to a new 28-year sentence to replace the initial life without parole result.
- **Savings to the state:**
  - Estimated cumulative number of reduced sentences for clients no longer serving life sentences: 1,819 years
  - Estimated savings in incarceration costs for Juvenile Lifer Unit operations: \$65,522,036
  - **Return on Investment:** 14.5 to 1 (1445%)

## 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. The Michigan Parole Board has recognized the work of SADO's Project Reentry as helpful and essential for those returning to our communities.
- 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. The CDRC published a guidebook for Michigan attorneys representing juvenile lifer clients.

## Criminal Defense Resource Center

**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.
- 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. Over 1,200 new subscribers have joined the CDRC in recent years.

## Michigan Appellate Assigned Counsel System

**MAACS, the system for appointing criminal appellate counsel in all Michigan circuit courts, merged with SADO in 2014. The MAACS roster of 150 private practice attorneys represents approximately 75% of indigent individuals appealing felony convictions. MAACS includes two attorney administrators, one litigation support attorney, and three support staffers.**

- **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 voluntary adoption of a standardized attorney fee policy by trial courts. After beginning with 14 trial courts, the pilot grew to include 50 out of 57 circuit courts statewide. In 2017, the Supreme Court approved these reforms, 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 and compliance with appellate minimum standards has improved. For example, violations of minimum standards for submitting late briefs decreased from 97 in 2017 to 7 in 2021. Partnering with CDRC, MAACS also conducts three regular annual trainings.
- **Litigation support:** MAACS started a program where a special litigation counsel provides regular support to roster attorneys and works for greater access to investigators and expert witnesses. Over the past two years, the Litigation Support Counsel has worked extensively with new roster attorneys. For their first two assignments, the roster attorney must consult with the Litigation Support Counsel for every stage of the appeal. The step-by-step approach helps train the roster attorney in best appellate practices.
- **Juvenile Appeals:** The United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention has awarded a three-year federal grant to MAACS to establish a Juvenile Defense Project in Michigan. The grant will fund the design, implementation, and oversight of a statewide roster of attorneys to represent children appealing their juvenile adjudications under the direction of a full-time Project Director and volunteer Advisory Board. In a media statement, Michigan Supreme Court Chief Justice Bridget Mary McCormack said, “This is a real game changer for juvenile indigent defense in Michigan. It will expand a successful formula for private assigned appellate counsel and could lay the foundation for further reform.”

- **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 Michigan Indigent Defense Commission proposed rates of \$100 to \$120 per hour, which have been implemented for several trial level indigent defense systems. MAACS has lost several roster attorneys to other assigned counsel lists and 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 certain roster attorneys, caseload and staffing concerns prevent action. Multiple 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 or MAACS financial incentives match those of the MIDC to allow roster growth.

#### **Budget Priorities (detailed in separate handout)**

- In recent years, Michigan has invested over \$150 million to reform the trial level public defense system. SADO's budget priorities represent a fraction of this amount for the appellate system:
- Continued funding of \$962,900 in FY 23 for SADO's Juvenile Lifer Unit and a transition of this funding to SADO's General Fund.
- Funding of \$445,100 in FY 23 for administrative support to sustain SADO's growth.
- Funding of \$287,900 in FY 23 to make SADO's sometime grant funded Wrongful Conviction Unit permanent.
- The Executive Budget Recommendation includes each of these priorities.

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