

House Judiciary Appropriations Committee  
April 9, 2019



Jonathan Sacks  
Director



Michigan Appellate Defender Act  
MCL 780.711 (1978)

Public Defense

Public Defense

- 18 lawyers, 2 investigators, 1 mitigation specialist
- 25% of Michigan's pending criminal appeals
- Trial and guilty pleas

Convictions and imprisonment  
of the actually innocent.

### Exonerations

- Twenty exonerations in recent years
- **James Grissom:** Rape conviction vacated after investigation on appeal revealed that complainant had fabricated allegations.
- **Derrick Bunkley:** Attempted murder conviction vacated where investigation of social media and cell phone evidence showed a definitive alibi.
- **Konrad Montgomery:** Attempted murder conviction vacated when investigation revealed cell-tower evidence had been misrepresented and inadequately challenged at trial.
- **Gregory Fisher:** Rape conviction vacated based on DNA exclusion.



## Human and financial cost of sentencing errors.

### Sentencing Errors

- In 2018, SADO's success in correcting sentencing errors resulted in a reduction in prison terms by a total of 148 years.
- These error corrections saved the state \$5,228,614.
- Average of \$5 million each year, about \$300,000 per staff attorney.

### Terance Magee



Convicted of delivery of cocaine, 15 to 30 years. Basic sentencing guidelines error on prior record scoring, reduced to 8 to 30 years.

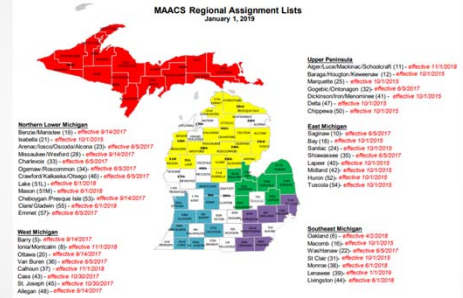
# Michigan Appellate Assigned Counsel System

## Michigan Appellate Assigned Counsel System

- MAACS merged with SADO in 2014.
- MAACS is the system for appointing criminal appellate counsel in all Michigan circuit courts, from a roster of approximately 150 private attorneys and SADO attorneys.
- Approximately 75% of indigent felony appeals are assigned to the MAACS roster.

## Michigan Appellate Assigned Counsel System

- Reforms to benefit trial courts and assigned counsel
- Roster oversight and training
- Litigation support



## Trial Court Survey

Improved experience from MAACS creation of orders	94.4%
Improved experience from MAACS service of orders	100%
Improved experience from new voucher process	86.7%
Greater confidence in accuracy of vouchers	86.7%
Overall satisfaction with reasonableness of fee policy	85.7%

## Litigation Support

**SADO** STATE APPELLATE DEFENDER OFFICE and MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM  
Job Posting

**MAACS LITIGATION SUPPORT COUNSEL**  
Lansing or Detroit Office

The Michigan Appellate Assigned Counsel System (MAACS), a division of the State Appellate Defender Office (SADO), is hiring an experienced criminal appellate attorney to serve as Litigation Support Counsel for the roster of approximately 150 private attorneys who accept 2300 court-appointed felony appeals in Michigan every year. The Litigation Support Counsel will train, support, and supervise new MAACS roster attorneys and pro bono counsel, manage state-funded investigative and expert services for MAACS appeals, and handle other administrative responsibilities associated with overseeing the roster. The successful candidate may also carry a limited caseload, subject to other job responsibilities.

The Litigation Support Counsel will manage the continued growth of the popular Appellate Investigation Project (AIP), which relied on a federal Byrne Justice Assistance Grant from 2015-2018 to provide litigation and investigative support in MAACS assigned appeals that otherwise would not have benefited from these critical services, obtaining multiple exonerations, new trials, and resentencings. Responsibilities include administration of screening protocols to determine eligibility for investigative and expert services, collaboration with contract investigators and experts, and working closely with assigned counsel to develop investigation and litigation strategies.

### Enhanced Training

### Better Representation

Year	Violations
2015	110
2016	60
2017	40

Year	Count
2015	1
2016	10
2017	6

### Michigan Appellate Assigned Counsel System – Continuing challenges

- Attorney incentives and funding
- Workloads
- Quality

### Criminal Defense Resource Center

**SADO Michigan State Appellate Defender Office and Criminal Defense Resource Center**

**ACLU**

**MAJCS**

**MICHIGAN JUVENILE JUSTICE CLINIC**

**AGENDA**

**Part I: How to Prepare for a Miller Hearing**  
 Thursday, March 7, 2019 | 7.5 CLE hours  
 Jetties (formerly South) Hall, 701 South State Street, Ann Arbor  
 \*Open to defense attorneys and defense team members only\*

8:30 – 9:00 a.m. Registration

9:00 – 9:15 a.m. Welcome and Introduction, *Martina David Martin, S-ADO*

9:15 – 10:15 a.m. Overview of the Legal Framework, *Kimberly Thomm, UM Juvenile Justice Clinic*

10:15 – 10:45 a.m. Understanding the Brain Science, *Dr. David Keating*

10:45 – 11:30 a.m. Understanding and Substantiating the Miller Factors, *Sybil Nelson, S-ADO*

11:30 – 12:30 p.m. Lunch on your own

12:30 – 1:30 p.m. Mitigation: What is it and how it is Developed, *Speaker TBD*

1:30 – 3:15 a.m. Record and Document Collection, *Isabel Nunez, S-ADO*

### Juvenile Lifer Unit

### Miller v Alabama (2012)

1. Children are different
  - Brain development
  - Potential for rehabilitation
2. Mandatory Life Without Parole unconstitutional
3. The “rare” and “irreparably corrupt” youth
4. Court must consider mitigating factors of youth

### Juvenile Lifer Unit

- 85 clients received new sentences with an average length of 30.5 years.
- 40 clients have been released on parole or discharged.
- 96 clients now await new contested sentencing hearings.



### Juvenile Lifer Unit

- Estimated cumulative number of reduced sentences for clients no longer serving life sentences: 1077 years
- Estimated savings in incarceration costs for not quite three years of Juvenile Lifer Unit operations: \$36,893,427
- Return on Investment: 20.1:1 (2070%)



### FY 2020 Budget Priorities

- **Continuation of funding for the Juvenile Lifer Unit**, with the amount of \$841,900 in the Governor's Recommendation now that contested hearings have started.
- **SADO also seeks the increase in the Governor's Recommendation of \$457,200** to allow hiring of four attorneys for the public defender division.
- These attorneys will allow the public defender division of SADO to represent more than 40% of clients appealing their trial court convictions.
- A smaller MAACS caseload that focuses on guilty pleas means better trained, better incentivized, and higher quality MAACS roster attorneys

### Future of SADO



### Amendment VI

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.**