

House Judiciary Committee
February 12, 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 has resulted in a reduction in prison terms by a total of 148 years.
- These error corrections SADO attorneys saved the state \$5,228,614.
- Averages \$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.

Criminal Defense Resource Center

Michigan State Appellate Defender Office
and Criminal Defense Resource Center
MADDO
MICHIGAN JUVENILE JUSTICE CLINIC
MAJCS
ACLU
AGENDA
Part 5: How to Prepare for a Miller Hearing
Thursday, March 7, 2019 | 1:30 PM, Room
Jeffrey Greenberg Auditorium 1040, 700 Senate State Street, Ann Arbor
Open to defense attorneys and in-house in-state attorneys only

- 6:30 - 9:00 a.m. Registration
- 9:00 - 9:15 a.m. Welcome and Introductions, Meeting (North Martin, 2-629)
- 9:15 - 10:15 a.m. Overview of the Legal Framework, Leading Themes, U.S. Juvenile Justice Clinic
- 10:15 - 10:45 a.m. Understanding the Best Interest, 2h, 2-hour Hearing
- 10:45 - 11:30 a.m. Understanding and Substantiating the Miller Factors, 45m, 2-629
- 11:30 - 12:30 p.m. Lunch on your own
- 12:30 - 1:30 p.m. Michigan: What is it and how is it developed?, 45m, 2-629
- 1:30 - 2:15 a.m. Round and 25-minute Collection, 45m, 2-629

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," "irreparably corrupt" youth
4. Court must consider mitigating factors of youth

Juvenile Lifer Unit

- 79 clients received new sentences with an average length of 30 years.
- 38 clients have been released on parole or discharged.
- 98 clients now await new contested sentencing hearings.



Juvenile Lifer Unit

- Estimated cumulative number of reduced sentences for 79 clients no longer serving life sentences: 1034 years
- Estimated savings in incarceration costs for the 2.5 years of Juvenile Lifer Unit operations: \$35,568,953
- Return on Investment: 20:1 (1992%)



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

FY 2020 Budget Priorities

- Continuation of the annual funding for the Juvenile Lifer Unit, with an increase to \$8,1,900 now that contested hearings have started.
- SADD also seeks an increase of \$971,750 to allow hiring of seven attorneys and two support staffers for the public defender division.
- These attorneys will allow the public defender division of SADO to represent more than 60% of clients appealing their trial court convictions.
- A smaller MAACS caseload that focuses on guilty pleas means better trained 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.