

# House Judiciary Appropriations Committee

February 19, 2020

Jonathan Sacks, Director



State Appellate Defender Office



# FY 2020 Budget Priorities

- **Governor's recommendation:** shifting the Juvenile Lifer Unit to the SADO baseline.
- **Grow SADO:** correct the imbalance in representation of poor people appealing convictions.

# Michigan Appellate Defender Act MCL 780.711 (1978)

# Public Defense

# SADO

17

Public Defenders

1

Investigator

1

Mitigation Specialist

S A D O

800 clients per year

25% of appeals pending in appellate courts

Trial and plea conviction appeals

Convictions and imprisonment  
of the actually innocent

**20** innocent  
clients exonerated  
in recent years

Derrick Bunkley  
Incarcerated 2 years



**20** innocent  
clients exonerated  
in recent years

James Grissom  
Incarcerated 9 years



**20** innocent  
clients exonerated  
in recent years

Konrad Montgomery  
Incarcerated 3 years



20 innocent clients exonerated in recent years

Gregory Fisher  
Incarcerated 15 years

The National Registry  
of  
EXONERATIONS

CURRENTLY 2,551 EXONERATIONS  
MORE THAN 22,540 YEARS LOST

HOME BROWSE CASES ISSUES RESOURCES ABOUT US

MAKE A GIFT



## GREGORY FISHER

### Other Michigan Child Sex Abuse Exonerations



Gregory Fisher

On March 15, 2001, 49-year-old Gregory Fisher was accused by his 12-year-old daughter of raping her in their apartment in Detroit, Michigan.

The girl, identified as E.F., gave conflicting accounts to her mother, police, and medical personnel. She initially reported that Fisher had raped her to a girlfriend, who told E.F.'s mother. When confronted by her mother, E.F. said Fisher had raped her two days earlier.

The girl's mother took her to a hospital where a rape kit was taken. The girl variously told police and her mother that she had been raped only once, that she had been raped three times, that the assaults had begun after Christmas in 2000, and that the rapes had occurred only days earlier.

Fisher was charged with three counts of first-degree criminal sexual conduct and one count of second-degree criminal sexual conduct.

He went to trial in Wayne County Circuit Court in August 2002. His daughter testified that he had raped her three times, performed oral sex on her once, and fondled her breasts on another occasion. During cross-examination, she admitted she had given inconsistent accounts at various times prior to the trial. She denied she had a boyfriend or had ever had sex with anyone else. The girl's mother testified that when she confronted Fisher, he held his head in his hands and asked if he should get a lawyer. She said he then left the home, never went back to work,

**State:** Michigan

**County:** Wayne

**Most Serious Crime:** Child Sex Abuse

**Additional Convictions:**

**Reported Crime Date:** 2001

**Convicted:** 2002

**Exonerated:** 2017

**Sentence:** 15 to 30 years

**Race:** Black

**Sex:** Male

**Age at the date of reported crime:** 49

**Contributing Factors:** Perjury or False Accusation, Official Misconduct

**Did DNA evidence contribute to exoneration:** Yes\*

# Human and financial cost of sentencing errors

# 2019 Sentencing Corrections

**199** years reduced in 2019

**\$7.8** million dollars saved in 2019

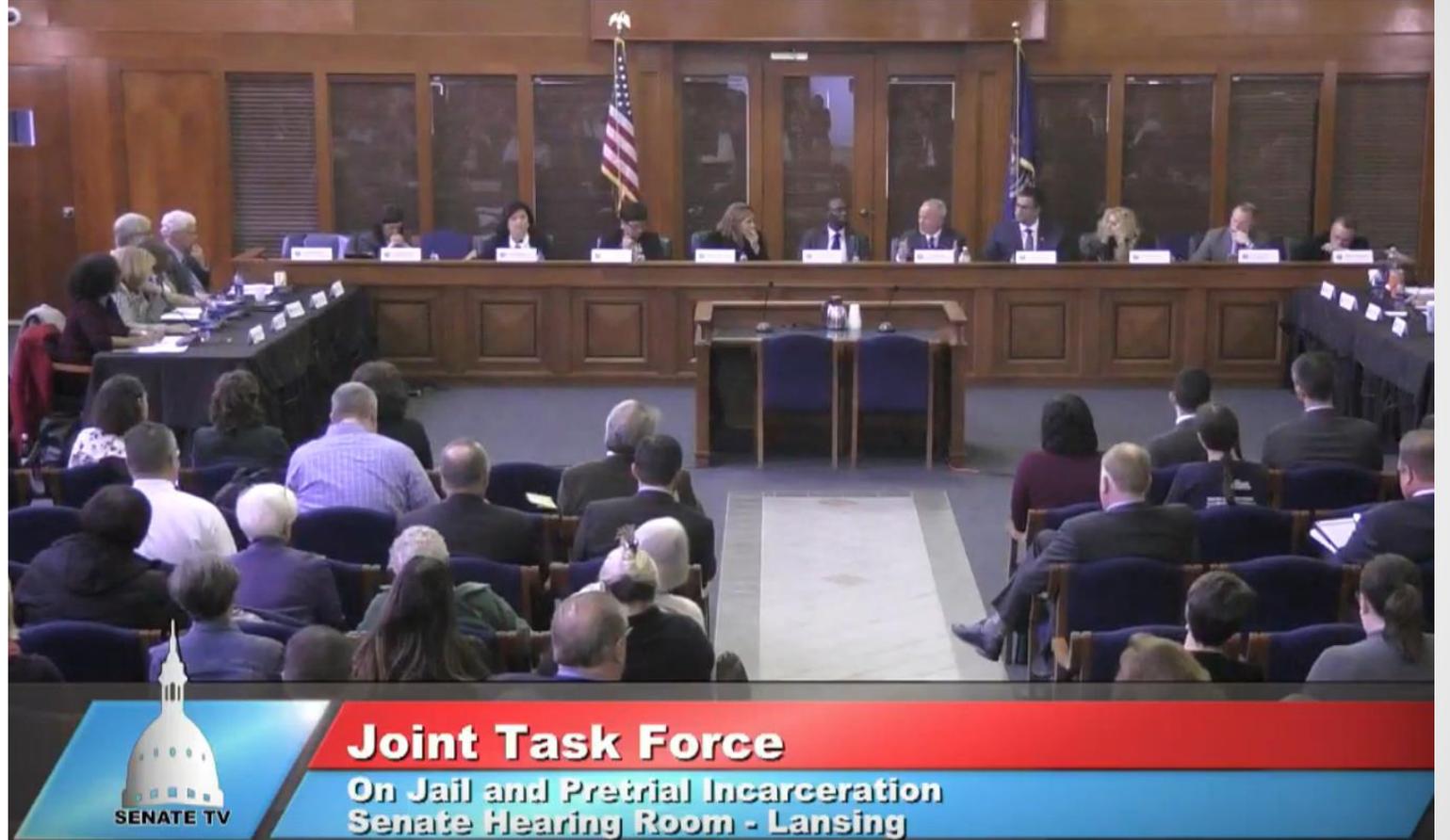
Average of \$5 million per year or about \$300k per attorney



## Michigan Joint Task Force on Jail and Pretrial Incarceration

Report and Recommendations

January 10, 2020



Michigan Appellate  
Assigned Counsel System

**MACS**

# MAACS

3

Roster Support Staff

2

Administrators

1

Litigation Support Counsel

# MAACS

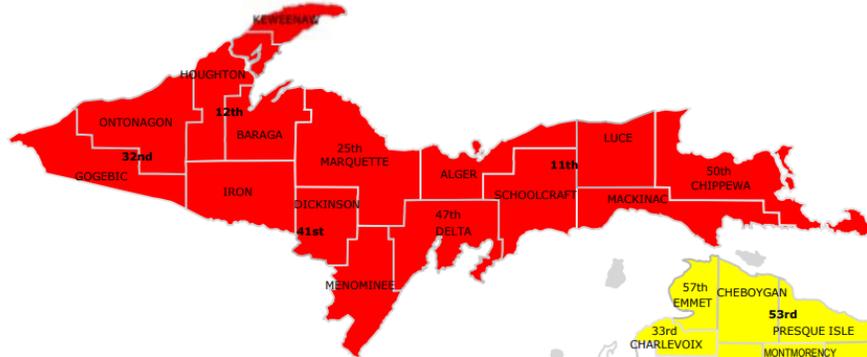
**150** private attorneys

**3,000** clients per year

**75%** of appeals pending in appellate courts

# MAACS Regional Assignment Lists

## January, 2020

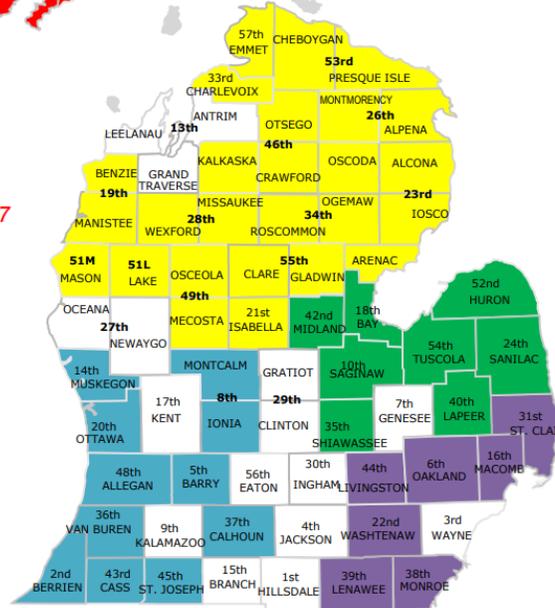


### Northern Lower Michigan

Benzie/Manistee (19) - *effective 9/14/2017*  
 Isabella (21) - *effective 10/1/2015*  
 Arenac/Iosco/Oscoda/Alcona (23)- *effective 6/5/2017*  
 Alpena/Montmorency (26) - *effective 1/1/2020*  
 Missaukee/Wexford (28) - *effective 9/14/2017*  
 Charlevoix (33) - *effective 6/5/2017*  
 Ogemaw/Roscommon (34)- *effective 6/5/2017*  
 Crawford/Kalkaska/Otsego (46) - *effective 6/5/2017*  
 Mecosta/Osceola (49) - *effective 6/1/2019*  
 Lake (51L) - *effective 6/1/2018*  
 Mason (51M) - *effective 6/1/2018*  
 Cheboygan/Presque Isle (53)- *effective 9/14/2017*  
 Clare/Gladwin (55) - *effective 6/1/2018*  
 Emmet (57)- *effective 6/5/2017*

### West Michigan

Barry (5)- *effective 9/14/2017*  
 Berrien (2) - *effective 8/1/2019*  
 Ionia/Montcalm (8)- *effective 11/1/2018*  
 Muskegon (14) - *effective 10/1/2019*  
 Ottawa (20) - *effective 9/14/2017*  
 Van Buren (36) - *effective 6/5/2017*  
 Calhoun (37) - *effective 11/1/2018*  
 Cass (43) - *effective 10/30/2017*  
 St. Joseph (45) - *effective 10/30/2017*  
 Allegan (48) - *effective 9/14/2017*



### Upper Peninsula

Alger/Luce/Mackinac/Schoolcraft (11) - *effective 11/1/2018*  
 Baraga/Houghton/Keweenaw (12) - *effective 10/1/2015*  
 Marquette (25) - *effective 10/1/2015*  
 Gogebic/Ontonagon (32)- *effective 6/5/2017*  
 Dickinson/Iron/Menominee (41) - *effective 10/1/2015*  
 Delta (47) - *effective 10/1/2015*  
 Chippewa (50) - *effective 10/1/2015*

### East Michigan

Saginaw (10)- *effective 6/5/2017*  
 Bay (18) - *effective 10/1/2015*  
 Sanilac (24) - *effective 10/1/2015*  
 Shiawassee (35) - *effective 6/5/2017*  
 Lapeer (40)- *effective 10/1/2015*  
 Midland (42)- *effective 10/1/2015*  
 Huron (52)- *effective 10/1/2015*  
 Tuscola (54)- *effective 10/1/2015*

### Southeast Michigan

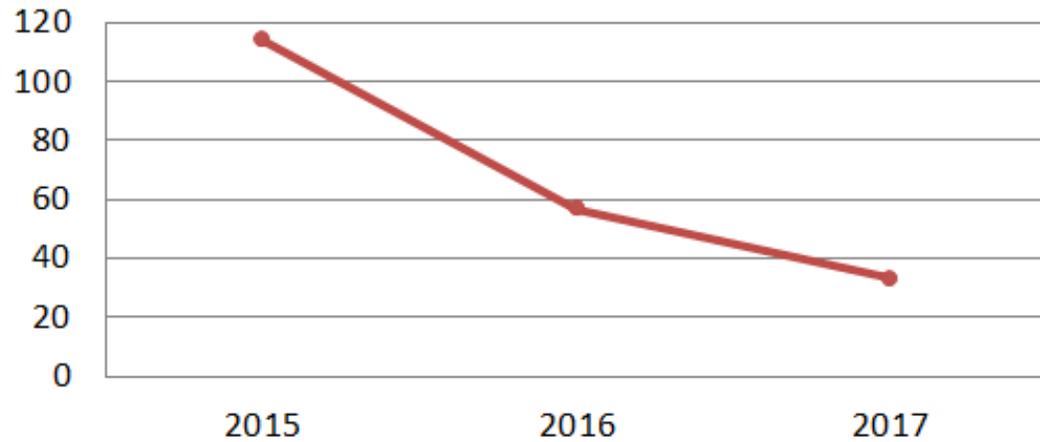
Oakland (6) - *effective 4/2/2018*  
 Macomb (16)- *effective 10/1/2015*  
 Washtenaw (22)- *effective 6/5/2017*  
 St Clair (31)- *effective 10/1/2015*  
 Monroe (38)- *effective 6/1/2018*  
 Lenawee (39)- *effective 1/1/2019*  
 Livingston (44)- *effective 6/1/2018*

# Enhanced Training

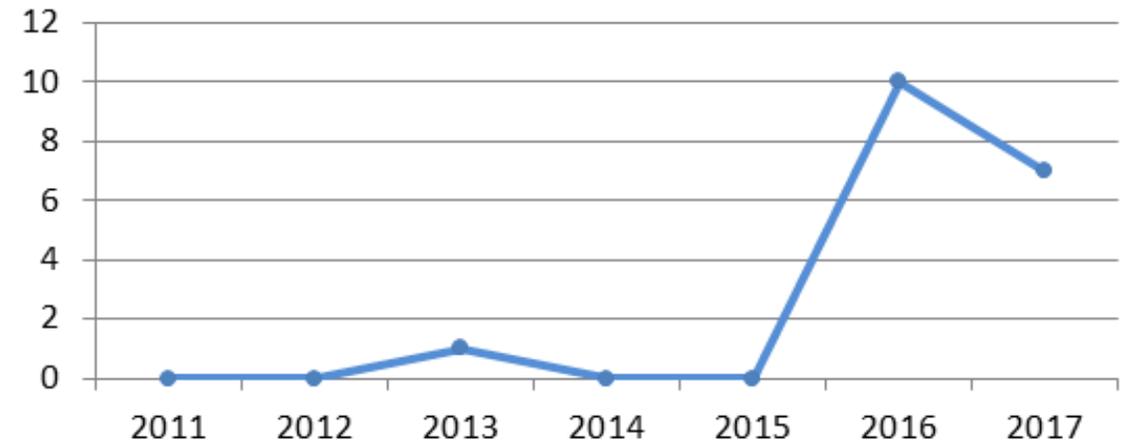


# Better Representation

**Minimum Standard 6 Violations  
(Loss of Oral Argument)**



**Removals and Resignations  
Under Scrutiny**



# MAACS Improvement Needs

- Attorney incentives and funding
- Workloads
- Quality

# Criminal Defense Resource Center



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

### Recently Uploaded Training Videos



[2019 Fall CDAM](#)  
12.06.2019



[2019 MAACS Fall Training](#)  
11.05.2019



[2019 MAACS and SADO New Attorney Orientation](#)  
11.04.2019



[2019 Spring CDAM Conference](#)  
10.08.2019



[2018 Fall CDAM Conference](#)  
10.07.2019



[How to Prepare for a Miller Hearing](#)  
04.17.2019

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www.SADO.org

www.SADO.org

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**Defense Attorney Products**

Products, and web subscriptions that can only be purchased by criminal defense attorneys.

Appointed  
Counsel

**Appointed Counsel Products**

Products, and web subscription that can be purchased by defense attorneys with over 60% of annual caseload devoted to indigent defense.

CDAM  
Member

**CDAM Member Products**

Products, and web subscription discounted for CDAM members.

MAACS  
Attorney

**MAACS Roster Attorney Products**

Products, and web subscription that can only be purchased by MAACS roster attorneys.

MDOC  
Prisoner

**MDOC Prisoner Products**

Publications that can be purchased by anyone and will be sent to a prisoner in a MDOC facility.

# Juvenile Lifer Unit

# Miller v Alabama (2012)

“

Because juveniles have diminished culpability and greater prospects for reform . . . they are less deserving of the most severe punishments.

# Juvenile Lifer Unit

7

Public Defenders

5

Mitigation  
Specialists

1

Reentry  
Coordinator

# Juvenile Lifer Unit

**101** clients resentenced

**31.3** year average minimum sentence

**54** clients back in community

**89** clients awaiting resentencing



# More than half of Michigan juvenile lifers still wait for resentencing

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# 2016-2020 Outcomes

**1,290** years reduced

**\$45.2** million dollars saved in 2019

Average of \$11.3 million per year or about \$6.5 million per attorney



**State Appellate  
Defender Office  
Project Reentry**

# Entrepreneurship 101

In celebration of Black History Month, join us for a panel of entrepreneurs and professionals who will share their entrepreneurship knowledge and journeys.

## Featuring

- Eric Williams, Detroit Justice Center
- Roby Davis, Rosedale Vision
- Jose Rivera, Detroit Clothing Line
- Osbie Jackson, Real Estate
- Vern Fuller, Suburban Truck Driving School, MDOC Liaison



# FY 2020 Budget Priorities

- **Continuation of funding for the Juvenile Lifer Unit**, with the adjusted amount of \$881,100 in the Governor's Recommendation.
- **SADO also seeks an increase of \$824,900** to allow hiring of attorneys to fix the inequality in the appellate public defense system.

# Order

May 15, 2019

ADM File No. 2017-27

Amendment of  
Rule 6.425 of the  
Michigan Court Rules

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Michigan Supreme Court  
Lansing, Michigan

Bridget M. McCormack,  
Chief Justice

David F. Viviano,  
Chief Justice Pro Tem

Stephen J. Markman  
Brian K. Zahra  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh,  
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 6.425 of the Michigan Court Rules is adopted, effective September 1, 2019.

[Additions to the text are indicated in underlining and

- (3) The court also must give the defendant a request for counsel form containing an instruction informing the defendant that the form must be completed and filed~~returned to the court~~ within 42 days after sentencing if the defendant wants the court to appoint a lawyer. The court must give the defendant an opportunity to tender a completed request for counsel form at sentencing if the defendant wishes to do so.
- (4) A request for counsel must be deemed filed on the date on which it is received by the court or the Michigan Appellate Assigned Counsel System (MAACS), whichever is earlier.

## SADO

- Statutory floor of 25% of pending felony appeals
- State-funded office of salaried public defenders
- Ample resources
- Managed caseloads

## MAACS

- All felony appeals not assigned to SADO (~ 75%)
- County-funded roster of private attorneys with unpredictable pay
- Limited resources
- Problematic caseloads

