

State Appellate Defender Office

Information for Family and Friends of The Recently Incarcerated

By: SADO's Client and Public Outreach Committee



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State Appellate Defender Office

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IMPORTANT LEGAL RESOURCES

- **State Appellate Defender Office (SADO):** www.sado.org
SADO represents approximately 25% of Michigan's indigent criminal defendants pursuing appeals from felony convictions throughout the State. SADO's website provides a vast amount of information on indigent criminal appeals and self-help resources.
 - **SADO's Re-Entry Services Locator:** <http://www.sado.org/locate/reentry>
SADO has compiled a database of agencies that may be able to help returning citizens with various needs they have immediately following their release from prison. The database is searchable by county and by particular need (i.e., housing, employment, transportation, legal aid, etc.)
 - **SADO's Information for Families:** <http://www.sado.org/Articles/Article/119>
Includes upcoming dates for Information Sessions and a printable copy of this packet and its attachments.
- **Michigan Appellate Assigned Counsel System (MAACS):** 517-334-1200
Administers the system for assigning private counsel to approximately 75% of Michigan's indigent defendants (If your loved one is not represented by SADO on appeal, chances are they are represented by a MAACS lawyer).
- **Michigan Court of Appeals:** <http://courts.mi.gov/courts/coa>
Check the status of the appeal in the Court of Appeals and Supreme Court and view the docket sheet for active and non-active appeals
- **Offender Tracking Information System:** <http://mdocweb.state.mi.us/otis2/otis2.aspx>
Michigan Department of Corrections website that lists each inmate and their current convictions
- **Michigan Department of Corrections (MDOC):** <http://www.michigan.gov/corrections>
Contains comprehensive information on internal policies and procedures of, such as what type of mail can be sent and what cannot, and contains a wealth of [information for families](#), including a new family participation program, www.familyparticipationprogram.com
- **Michigan Court Rules:**
<http://www.courts.michigan.gov/courts/michigansupremecourt/rules/pages/current-court-rules.aspx>
Contains rules regarding all aspects of criminal procedure and appeals.



THE PROCESS OF A CRIMINAL APPEAL

Your loved one was convicted and cannot afford a lawyer for an appeal. Now what?

- Within 42 days from the date of sentencing, the defendant must sign and return to the court the following form: Notice of Appellate Rights and Request for Appointment of Counsel. The form is found here:
<http://courts.michigan.gov/Administration/SCAO/Forms/courtforms/appeals/cc265.pdf>
Note: It is very important that the form be filed within 42 days of sentencing, See MCR 7.204(2). If the defendant did not timely file the form, a lawyer should be consulted about options.
- The trial court will then issue a Claim of Appeal and Order Appointing Counsel if convicted by trial or an Order Regarding Appointment of Appellate Counsel if convicted by plea.
 - If you are unsure of whether or not this has been done, you can search the Court of Appeals website to see the docket for a trial case, or call the circuit court clerk's office for a plea case.
- Counsel will be appointed to the case.

What is an appeal?

- Purpose of appeal is to identify **legal errors** that happened in the circuit court that resulted in an unfair result
- A trial is very different from an appeal
- An appeal may involve challenging the validity of the conviction or sentence or both
- The goal of an appeal is to correct the error – usually means a new trial or a correction of an invalid sentence – rarely would mean case is dismissed and the client goes home.
- For plea cases, if a plea withdrawal is granted, the defendant would be facing the original charges all over again, so there is risk.
- Appeals take a long time and fast results should not be expected.

Was your loved one convicted by trial or by plea?

- **If by trial**, then the appeal is **by right** (which means the Court of Appeals has to hear the appeal)
 - Any legal errors that occurred at trial can be raised
 - Facts established at trial can rarely be challenged
- **If by plea**, then the appeal is **by leave** (which means we have to ask the Court of Appeals to hear the appeal and they can decide if they will or not)
 - Issues that can be raised are very limited because the nature of a plea means that challenges to the evidence are generally waived. Options include: (1) plea withdrawal - arguing that something was wrong with the plea taking procedure, for example, if the plea was not made “knowingly, intelligently and/or voluntarily” according to legal standards; (2) sentencing errors – arguing that the sentence is legally invalid. Without a legal error, there is no opportunity to ask the judge or Court of Appeals to take a second look at the sentence (i.e. there is no such thing as a motion for a time-cut, or time off of prison sentence for good behavior).
 - Risk: Appeals following a plea always involve some amount of risk. If an individual is allowed to withdraw his or her plea, then the case starts all over again. The individual must face all of the original charges again. The prosecutor is not obligated to offer a new plea deal and the case will likely proceed to trial. If a resentencing is granted the sentencing judge can consider any new bad information that may have occurred since the first sentence (new felonies or tickets while incarcerated). An attorney's job is to properly advise the client of the risk of taking an appeal.

What happens after SADO is appointed as counsel? (Procedures will vary if not a SADO case)

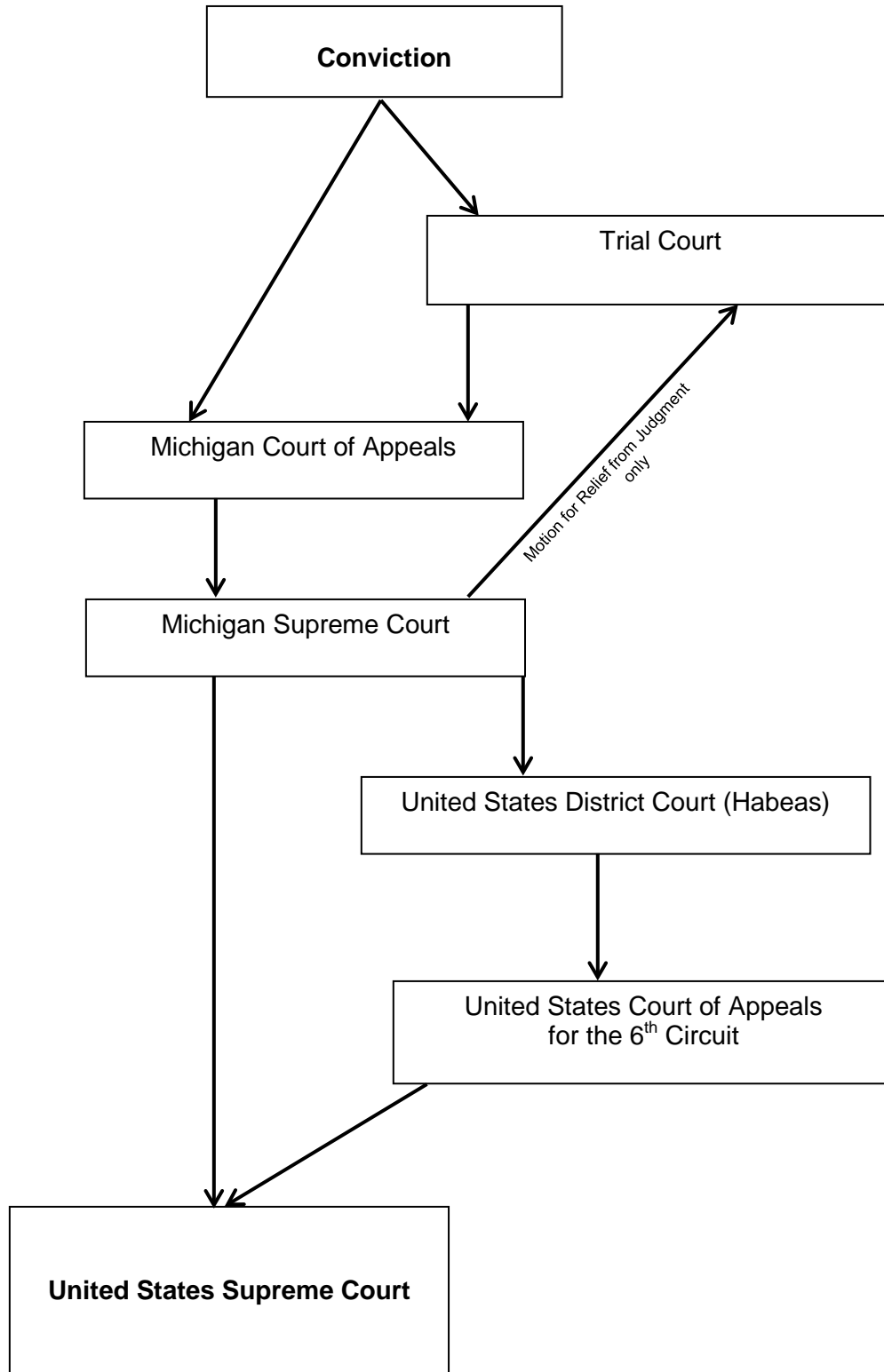
- SADO orders all trial court records (transcripts, court file)
 - For trial cases, the court reporter has **91 days** to file the trial and sentencing transcripts from the order appointing counsel. A particular SADO attorney will not be assigned to a trial case until the transcripts have been received. So, it could be about 3-4 months after the court appoints counsel that a particular lawyer will be assigned to the case.
 - For plea cases, the court reporter has 28 days to file the plea and sentencing transcripts from the order appointing counsel. A SADO attorney will be assigned to a plea case anywhere from 2 weeks to 4 months after the court appoints counsel.
- After the particular SADO attorney is assigned to the case, the attorney reads the file, conducts legal research, and begins investigation if needed
- **Only then will the attorney schedule a personal interview with client to discuss the appeal.** Note that attorneys typically do not discuss the case with their clients prior to reading the file because they have incomplete information at the time. Attorneys may not be able to speak to families until after they visit and get express permission from the client.
- Attorney files the appropriate appellate pleading
 - The deadline for filing an appeal of a trial conviction is **56 days** from the date that the last transcript was filed. But, attorneys frequently receive an additional **56 day** extension and can receive other extensions in certain circumstances.
 - The client may be able to file their own supplemental brief raising issues they wish to raise, but that should be discussed thoroughly with their attorney. These client pleadings are often called “Standard 4 Briefs” or “Pro Per” or “Pro Se” pleadings.
 - The deadline for filing for plea withdrawal is **6 months** from the date of sentence regardless of whether transcripts have been filed. There are no extensions allowed!

What happens after the appeal is filed?

- **In a trial case:**
 - The attorney will send the client a copy of the brief that was filed.
 - The prosecutor will have an opportunity to file a response brief
 - If the prosecutor files a brief, the attorney will send the client a copy of the pleading.
 - If the pleadings have been filed in the trial court, a hearing will be scheduled, usually within a month or so, and the court will make a ruling on the case. If the pleadings have been filed in the Court of Appeals, there can be a very long waiting period before the court schedules “Oral Arguments.”
 - Oral Arguments are public and the public is welcome to attend. The lawyers will argue their briefs before a panel of three judges. The judges will issue a written decision sometime after oral argument, anywhere from weeks later to two years later.
 - If the appeal is successful, client may get a resentencing, plea withdrawal or a new trial. But the prosecutor can appeal, which will prolong the appeal process.
 - If the appeal is denied, the appeal can continue to the Court of Appeals or Michigan Supreme Court. The attorney may or may not represent the client in a further appeal to the Michigan Supreme Court.
 - The attorney will continuously keep the client on notice about any developments with the case.



BASIC DIAGRAM OF A CRIMINAL APPEAL



FELONY SENTENCING

When a person is sentenced for a felony in Michigan, they are given what is called a “minimum term” and a “maximum term.”(There are very limited circumstances where a person might get a flat term of years. For example, felony firearm carries a mandatory flat two year prison sentence).

Minimum Term (Usually within the Sentencing Guidelines Range)

- The judge sets the minimum number of years the person must stay in prison.
- A person is not eligible for parole until they reach their minimum sentence date. You can find a person’s parole eligibility date (or “earliest release date”) on [OTIS](#).
- The minimum term usually comes from a range that is set by the sentencing guidelines. The sentencing guideline range is determined by assessing points for prior crimes (Prior Record Variables or PRV Level) and points for things that happened to aggravate the sentencing offense (Offense Variables or OV Level) (presence or use of a weapon, injury, number of victims, etc.). As of the end of July 2015, the guidelines are now advisory only, meaning a judge does can sentence outside the range, as long as it is “reasonable.”
- The court first selects the grid corresponding to the type of offense, then uses the PRV and OV points to place the defendant in a cell on the grid, which determines the range. A sample grid can be found below, and the complete Michigan Sentencing Guideline Manual can be found here: <http://courts.mi.gov/education/mji/publications/documents/sq-manual.pdf>.
- In the exceptional cases where someone receives a flat term (i.e. two years for felony firearm), they simply serve their sentence and are released. The Parole Board has no jurisdiction over their release date; the person will be released as soon as they serve their flat term of years.

OV Level	PRV Level						Offender Status						
	A 0 Points	B 1-9 Points	C 10-24 Points	D 25-49 Points	E 50-74 Points	F 75+ Points							
I 0-9 Points	0	12*	24	36	51	72	18*	20	40	60	85	120	
							22	25	50	75	106	150	HO2
							27	30	60	90	127	180	HO3
							36	40	80	120	170	240	HO4 [†]
II 10-24 Points	12	15	30	51	72	78	20	25	50	85	120	130	
							25	31	62	106	150	162	HO2
							30	37	75	127	180	195	HO3
							40	50	100	170	240	260	HO4 [†]
III 25-34 Points	15	21	36	57	78	84	25	35	60	95	130	140	
							31	43	75	118	162	175	HO2
							37	52	90	142	195	210	HO3
							50	70	120	190	260	280	HO4 [†]
IV 35-49 Points	21	24	45	72	84	87	35	40	75	120	140	145	
							43	50	93	150	175	181	HO2
							52	60	112	180	210	217	HO3
							70	80	150	240	280	290	HO4 [†]
V 50-74 Points	24	36	51	78	87	99	40	60	85	130	145	160	
							50	75	106	162	181	200	HO2
							60	90	127	195	217	240	HO3
							80	120	170	260	290	320	HO4 [†]
VI 75+ Points	36	45	57	84	99	117	60	75	95	140	160	160	
							75	93	118	175	200	200	HO2
							90	112	142	210	240	240	HO3
							120	150	190	280	320	320	HO4 [†]

[†] Certain fourth habitual offenders may be subject to a mandatory minimum sentence of 25 years' imprisonment. See MCL 769.12(1)(a).

Maximum Term

The maximum sentence is frequently already determined by statute, although there are exceptions where a judge sets a maximum term as well. Once a person reaches their maximum sentence, the parole board has no power to keep that person in prison any longer.

Sentence Enhancements

- Sentence enhancements can increase the sentencing guideline range.
- A sentence enhancement is typically applied when a defendant has prior felonies.
- The most common is the “habitual offender enhancement:” a habitual offender 2nd has one prior felony, a habitual offender 3rd has two, and a habitual offender 4th has three or more.
- The habitual offender sentence enhancements permit increase in the top of the sentencing guidelines range (note the HO2, HO3, and HO4 on the grid), as well as increase in the maximum penalty.
- Another typical enhancement, the 2nd or subsequent controlled substance offender enhancement, permits doubling of the sentencing guidelines range and increasing the maximum possible penalty. These increases are not mandatory, even if the enhancement applies – a judge has the option to impose or to not impose the increases at sentencing.

Bargained-for Sentences in Plea Cases

- Many defendants can and do include sentencing provisions as a term of their plea bargain. Some bargain for a specific term of years (5 year minimum), some may bargain for a sentence in the bottom half or very bottom of the range, etc.
- If the defendant receives the sentence he bargained-for, even if it is outside the sentencing guidelines range, he generally cannot successfully challenge the sentence on appeal.

Early Release

If a defendant is sentenced to **jail or probation**, they may receive good-time or other incentives which may permit early release. A defendant sentenced to **prison** has no option for early release (there is no good time, disciplinary credit or time-cut option for a prison sentence).

Parole Eligibility

- A person is eligible for review by the parole board when they reach their minimum term. Usually they file review and any interview will occur within a few months before the end of the minimum term or earliest release date.
- The inmate will receive a decision in writing and notice of the next review date if they are not given a parole date (if they are “flopped”). The Parole Board determines (at their discretion) the actual release date.



VISITING A PRISON

*Visiting a prison can be an intimidating process. We have included some tips here to hopefully make your visit smoother, and answer questions you may have about the process in general. *PLEASE NOTE: Policies can change at any time and for any reason. Please call the facility ahead of time, especially if it is your first visit, to get complete, up-to-date information.**

Who Can Visit?

1. Persons approved for placement on the inmate's approved Visitors List.
2. The Visitor's List includes immediate family members and no more than 10 other people the inmate wants to allow for visits.
 - a. Immediate family members: grandparent, parent, stepparent, spouse, mother-in-law, father-in-law, child, step-child, grandchild, sibling, step-sibling, and half-sibling. An aunt and uncle can be added if adequate verification is provided that they served as a surrogate parent.
3. The following people can visit without being on the List, unless they are related by blood or marriage, on probation or parole as a result of a felony, or another inmate:
 - a. Qualified clergy
 - b. Volunteer in an outreach program sponsored by an external religious organization
 - c. Attorney or attorney's representative, on official business
 - d. Someone from the legislative, judicial, or executive branch of government; consulate general.
 - e. NOTE: These visits are not counted as one of the inmate's regular visits.
4. The inmate gives the List to housing unit staff. Immediate family members can be added/deleted by the inmate at any time. Other names can be added/deleted by the inmate at least once every six months.
5. Number of Visits:
 - a. Level I: 8 per month
 - b. Level II: 7 per month
 - c. Level IV: 5 per month
 - d. Level V: 4 per month
 - e. Segregation: 4 per month
 - f. STG I: 3 per month; STG II: 2 per month.
 - g. RSAT parolees: 7 per month

Applying to Visit:

1. Each person named on the Visitor List must complete the MDOC Visiting Application and submit it to the facility where the inmate is housed.
 - a. A Visitor's Application is attached and can be found online at:
http://www.michigan.gov/documents/corrections/CAJ-103_MDOC_Visiting_Application_222547_7.pdf
 - b. **Tip:** Include self-addressed, stamped envelope with your application. If no envelope is provided, the proposed visitor is only notified of a denial.
2. Once the Visitor List and Visiting Application are submitted, facility staff will determine if the proposed visitor is eligible approval to visit.
3. To be approved, the visitor cannot be:
 - a. Under a current visitor restriction;
 - b. An inmate or former inmate in any jurisdiction. An inmate/former inmate who is an immediate family member may be approved by the Warden;

- c. On parole or probation as a result of a felony conviction. Immediate family member may be approved by the Warden and written approval from the supervising field agent;
- d. Under 18, unless the visitor is an emancipated minor, or the child, step-child, grandchild, sibling, step-sibling, or half-sibling of the inmate. Minors cannot visit if:
 - i. There is a court order prohibiting visits between the child and inmate;
 - ii. Parental rights of the inmate have been terminated; or
 - iii. The inmate has been convicted of child abuse, criminal sexual conduct, or any other assaultive or violent behavior against the child or sibling of the child, unless an exception has been granted by the Director upon request of the Warden.
- e. On another's inmate's approved visitors list, except as an immediate family member.

Denial and Removal from List:

- 1. The Warden has broad authority to deny approval to visit, based on the safety/security of the facility, protection of the public, previous violations of visiting room rules, or for other reasonable causes.
- 2. If a visitor is denied, the visitor will be provided with a copy of the denied Application, which includes the reason for denial, and be advised in writing of the reason for the denial.
- 3. Appealing a Denial: A proposed visitor may submit a written request for reconsideration to the Warden.
- 4. Removal from a List:
 - a. A person can request to be removed from the list by writing to the facility.
 - b. The MDOC must remove a visitor from the list if the MDOC receives reliable information the visitor is no longer eligible. Both the inmate and visitor will be notified in writing of the reasons for removal.
 - c. Appealing a Removal: Inmate may appeal through the grievance process. Visitor may submit a written request for reconsideration to the Warden.

Arriving at the Correctional Facility:

- 1. Up to 5 people may visit an inmate at a time, not including children under 2.
- 2. Identification: All visitors must have picture identification
 - a. For visitors under 18 without a picture ID, a birth certificate, certification of adoption or court order establishing paternity can be used.
 - b. Visitors are given a badge, which must be worn and visible at all times. It is turned in at the end of a visit. Black light hand marking system will also be used.
- 3. Searches
 - a. All visitors will be searched before being admitted to the visiting area by a MDOC staff member of the same sex as the visitor. The search includes: visitor's clothing, pat down of all areas covered by clothing, removal of his/her shoes and socks and opening of his/her mouth to allow for inspection. Prostheses and/or wig must also be searched.
 - b. A visitor who brings a baby must change its diaper, using a disposable diaper supplied by the institution, in the presence of a staff person prior to the visit.
 - c. Any personal property taken inside the secure perimeter of a facility will be searched; reasonable suspicion of contraband and/or consent of the visitor is not required.
 - d. There will be no strip searches or body cavity searches of a visitor unless a search warrant has been obtained.
 - e. Vehicles: An appropriate law enforcement agency will be contacted if contraband is suspected in a vehicle; MDOC employees will not search the vehicle.
 - f. Contraband: Whenever the Warden or the Administrator of the Office of Parole and Probation Services determines there is reasonable suspicion a person will attempt to bring in weapons, alcoholic beverages or poisons, or prescription drugs/controlled substances without written certification from a licensed physician, or the person is found to be in possession of any of these items, MDOC staff may request the

- appropriate law enforcement agency to be present for questioning or search of the person.
- g. MDOC policy prohibits the following items from being brought into a facility:
 - i. Cell phones, pagers
 - ii. Audio or visual recording devices, including cameras
 - iii. Tobacco products
 - iv. Money, except change for vending machines
4. Visitor Attire: If it is the first visit, a visitor may be given a smock to wear if the attire does not meet the following standards. After the first visit, no exceptions are made and visits will not be allowed, even if the visitor changes and tries to come back the same day. Standards:
- a. Visitor must be fully dressed in clean clothes in good repair.
 - b. Must wear underpants/panties; adult females must wear a brassiere, free of metal (i.e. no metal underwire).
 - c. Prohibited clothing:
 - i. Exposes excessive skin: includes see-through clothing, tube/halter tops, and shorts or skirts/dresses over 3 inches above the knee.
 - ii. Exposes undergarments
 - iii. Extremely form-fitting items as outer garments
 - iv. Extremely loose-fitting
 - v. Displays obscene or inflammatory images/words
 - vi. Outer garments (including headgear, gloves, etc.)
 - vii. Hooded garments
 - viii. Electronic wrist bands (i.e. FitBit), pendants, eyeglasses or similar items which contain a camera, GPS, wireless or electronic functions.
 - d. Religious headgear is allowed, but subject to search/inspection
 - e. Must wear footwear at all times.
 - f. Jewelry is itemized on entry and departure. No more than 10 pieces.
 - g. Watches: Visitors are no longer permitted to wear watches into visits.

Entering the Visiting Room (VR):

1. Property Visitors can bring into the VR:
 - a. Locker key
 - b. Visitor pass
 - c. ID card
 - d. MONEY for food:
 - i. Most prisons now use pre-paid vending cards. There are kiosks in the lobby of these prisons, where you can buy cards and add money. NOTE: these cards are not transferrable from prison-to-prison, so only place money on the card that you will use during that visit, in case your loved one is transferred.
 - ii. Some prisons, although very few, still allow change for vending machines, at a maximum \$25 per visitor; over three visitors in group, maximum is \$60.
 - iii. Call prior to the visit to determine if the facility uses cards or change.
 - e. Infant: two clear plastic bottles, one pacifier, one single-layered baby blanket. Sippy cup if toddler present.
 - f. Medications and/or medical equipment, approved by shift commander.
 - i. Paraplegics must use facility's wheelchair while in the VR. Member of that visitor's visiting party is responsible for moving the individual to the facility wheelchair. If this move cannot happen, they can use their own wheelchair, but it will be a non-contact visit.
 - ii. Quadriplegic: may use their own wheelchair, but chair will be inspected. Clothed body search of exposed areas without removal from the chair.
 - iii. Service animal: harness/collar, cape or backpack will be searched.
 - g. Photo tickets

- h. Legal documents can be brought in by immediate family members; cannot be left with the inmate and can be searched.
 - i. Attorneys, their representatives, legal paraprofessionals, law clerks on attorney visits may bring: legal papers, writing pads and implements, softbound copies of law books and up to \$25 in change or prepaid card. Attorneys may leave legal documents at the front desk at the end of the visit. Delivered as mail to the inmate.
 - j. Outreach volunteers and clergy: two religious books, pen/pencil, notepad, up to \$15 in change. Cannot be given to the inmate. Clergy may bring in sacramental items only if Warden approves before the visit.
 - k. Media: notebook/pad and pencil/pen. Cannot be given to the inmate.
2. Physical Contact: The only allowable contact is one kiss and one embrace at the beginning and end of each visit and when a picture is being taken. Inmate and visitor can have their arms around the shoulders of one another and may hold hands. Inmate-parent/grandparent may touch and hold his/her child under two and bottle feed his/her infant while visiting.
 3. Exchanging Attire is Prohibited: The MDOC policy states, "Visitors are not to exchange or give any part of their attire to a prisoner." For example, do not let the inmate try on your glasses just to see how they look, or borrow your sweater if they are cold. This could result in a visitor restriction.
 4. Use of Restrooms:
 - a. Only use restrooms designated for public use, not those used by inmates.
 - b. Infant: may leave VR one time during the course of the visit to change the diaper
 - c. Exception may be granted if visitor's current medication condition is substantiated in writing from his/her physician and prior approval granted by Warden.
 - d. Searched prior to returning to VR.
 - e. Cannot use restroom during count time.
 5. Photos:
 - a. Inmate cannot be photographed with another inmate or another inmate's visitor.
 - b. Inappropriate gestures will lead to confiscation of the photo.
 - c. Inmate cannot take photo tickets back to the housing unit.
 - d. All tickets must be used or removed at the end of the visit.

Other Types of Visits:

1. Hospital Visits: Hospitalized inmates may have visitors who meet the above requirements only if the inmate is critically ill, as verified by the attending physician, and with prior approval of the Warden/Deputy Warden of the facility providing custody coverage.
2. Non-contact visits: Level V inmates, those serving a disciplinary sanction in detention (punitive segregation), or those classified to administrative segregation will only be allowed non-contact visits. Also, the Warden can limit an inmate of any security level to non-contact visits when:
 - a. Immediate family member or an attorney is subject to a visitor restriction.
 - b. Adequate search cannot be done due to the presence of a medically required device.
 - c. Inmate is being monitored for suicidal behavior.
 - d. The Warden determines, based on a review of a guilty finding in a major misconduct charge or the upholding of a visitor restriction, that an inmate or visitor demonstrates unmanageable behavior that is related to contact visiting.
 - e. If a hearing officer upholds a visitor restriction based on conduct during a non-contact visit, inmate and restricted visitor will not receive any visits during the time period of the restriction.

Disallowed/Terminated Visits:

1. Visits may be terminated based on VR overcrowding.
2. A visit will not be allowed or will be terminated if:

- a. The inmate does not want a visit.
- b. The visitor is a minor family member and is not accompanied by an adult immediate family member of the child or his/her legal guardian, from the approved visitor's list.
- c. The inmate/visitor appear intoxicated or under the influence of a controlled substance.
- d. The inmate or visitor fails to comply with the CFA Visiting Standards.
- e. The visitor uses verbally abusive language at staff, inmates, or other visitors.
- f. The inmate commits a major misconduct in the VR.
- g. Reliable information is received that the purpose of the visit is to conduct an illegal act.

Visitor Restrictions

1. A 90-day visitor restriction will be requested if any of the following happen:
 - a. The visitor makes a false statement with respect to visiting
 - b. The visitor damages or attempts to damage MDOC property or engages in disruptive behavior
 - c. The visitor removes or attempts to remove any item from the institution
2. A permanent visitor restriction will be requested if any of the following happen:
 - a. The visitor smuggles, conspires to smuggle, or attempts to smuggle items into, or out of, the facility.
 - b. The visitor assaults staff or threatens them with physical harm
 - c. The visitor assists, conspires to assist, or attempts to assist an inmate to escape
 - d. The inmate or visitor touches or exposes the breasts, buttocks, or genital area during a visit.
 - e. The visitor has a pending felony or misdemeanor charge or has been found guilty of a felony or misdemeanor that occurred in connection with a visit.
3. Director's Restrictions
 - a. The Director of the MDOC may restrict all of an inmate's visits if the inmate is convicted or found guilty of any of the following:
 - i. Felony/misdemeanor that occurred during a visit
 - ii. A major misconduct that occurred during a visit or was associated with a visit
 - iii. Escape (attempt or conspiracy)
 - iv. Two or more violations of substance abuse rules, including failure to take a substance abuse test (that restrictions lasts for at least two years).
4. Process
 - a. The visitor will be sent the Notice of Proposed Visitor Restriction and the date of the hearing.
 - b. A hearing investigator is assigned to all visitor restriction hearings.
 - c. The hearing will be conducted within 30 business days of the date of the notice and conducted by a hearing officer from the Department of Licensing and Regulatory Affairs (i.e. *not* the MDOC).
 - d. A re-hearing may be requested.
5. Removal of a Permanent Restriction
 - a. The visitor may submit a written request to be removed from the permanent restriction to the Warden of the facility in which the inmate is housed.
 - b. The request for removal cannot be made until *one year* after the incident.
 - c. The following scenarios require *at least* a three-year restriction:
 - i. Smuggling (conspire or attempt) a controlled substance, alcohol, a weapon, escape materials, cell phone or other communication device, or money over \$10.
 - ii. Assault or threatening to assault staff or others
 - iii. Assisting (conspire or attempt) an inmate to escape
 - iv. A felony conviction for behavior by the inmate or visitor which resulted in the visitor restriction.

***The above information is a lot to digest, but should be reviewed before visiting a prison. This page is a basic visiting checklist to consider prior to visiting your loved one. However, the most detailed information on visiting can be found at the facilities—the Correctional Facilities Administration (CFA) Visiting Standards, usually located on the front desk (or online at: [http://www.michigan.gov/documents/corrections/Visiting_Standards - 2007 209112 7.doc](http://www.michigan.gov/documents/corrections/Visiting_Standards_-_2007_209112_7.doc)) and by reading Policy Directive 05.03.140 “Inmate Visiting” located online at: http://www.michigan.gov/documents/corrections/05_03_140_210434_7.pdf.

VISITING CHECKLIST

- Am I on the Approved Visitor's List?
- Do I have visits remaining in this month?
- Am I subject to any Visitor Restrictions? (There would have been a formal hearing).
- Are there more than 5 people in my visiting group?
- Do I have picture identification?
- Do any kids have an original birth certificate, a certification of adoption or a court order establishing paternity?
- Did I leave all personal property in my vehicle?
- Did I “shake myself down?” I.e., check my person for cell phones, pagers, cameras, tobacco products (including lighters), money (aside from change for vending machines)?
- Is my clothing appropriate?
 - My clothes are clean and in good repair
 - I am wearing undergarments
 - My clothing does not expose excessive skin
 - My clothing is not extremely form fitting or extremely loose fitting
 - My clothes do not have obscene or inappropriate images/words
 - I am not wearing outerwear
 - I do not have more than 10 pieces of jewelry
 - I am not wearing a watch
- Do I have my prepaid vending card?
- If I have an infant, do I have more than 2 clear plastic bottles, one pacifier, one single-lawyered blanket?
- If I have a toddler, do I have more than a sippy cup?
- Do I have documentation of necessary medications to show to the shift commander?
- In the VR, remember to only kiss and hug once at the beginning, and once at the end of the visit. NO MORE than hand holding or arms around shoulders are allowed in the VR.
- Did I use the restroom prior to the visit?
- Did I use all my photo tickets? Inmates cannot take unused tickets with them.



TRANSFERS

A common question we receive from our clients and their family members is to request a transfer to a different prison, usually closer to the client's family and support system. While we understand the desire, there is very little SADO can do to secure transfers. The MDOC usually only transfers if there is a medical or programming need, the inmate needs to be transferred to a higher (or lower) custody level, or there are safety issues between inmates at one facility. This sheet includes information about inmate placement in the MDOC, so family members can better understand all the factors that go into deciding where an inmate is housed. **This information applies only to male inmates, as females are all located in one facility.**

- There are five security level designations for MDOC facilities: Level 1 (I), Secure Level 1 (I), Level 2 (II), Level 4 (IV), and Level 5 (V). Level I is the least secure level; Level V is the most secure.
- An inmate can be classified (labeled) as Level I, II, IV, V or to Administrative Segregation. Administrative Segregation is the most restrictive level of security classification; no prison is comprised solely of Administrative Segregation beds, but rather there are Administrative Segregation units throughout the State.
- Each facility has a Security Classification Committee (SCC), appointed by the Warden to determine the classification level of each inmate.
- The SCC fills out a Security Classification Screen to determine an inmate's level, which takes into account his/her history (escape risk, gang affiliation, etc.) and behavior while incarcerated (tickets, obtaining a GED, etc.). The points from both sections determine the level.
- Importantly, the MDOC has the ability to depart from or waive the recommended level of placement. Reasons for a departure/waiver could include an ongoing investigation, the nature of recent misconducts, access to medical/mental health treatment, or a lack of bed space.
- Usually, an inmate's security level is reviewed every 12 months.
- Besides an inmate's security level, the MDOC must take into account the following factors in determining what prison to place someone in. Not all of the services are available at every prison.
 - Mental Health treatment
 - Therapeutic and Religious Diets
 - Wheelchair Accessibility
 - Vision/Hearing Impaired Accommodations
 - Inpatient Medical Care
 - Dialysis
 - Programming Needs, including Special Education services
 - Re-Entry In-Reach
 - Youthful Offenders
 - Special Problem Offender Notices (SPON): prohibits certain inmates from being housed in the same facility.

Special Notes on Administrative Segregation and Protective Custody

Administrative Segregation

- The SCC must classify an inmate to Ad. Seg., which is different from Detention; Ad. Seg. can be long-term, and Detention is usually 30-days or less as a result of a ticket.
- Many reviews are required to keep an inmate in Ad. Seg., including by housing unit teams, the SCC, the Warden, the Regional Prison Administrator and Qualified Mental Health Professionals.
- An inmate will be reclassified to a lower level only with the approval of the SCC and the Warden.
- There are two programs the MDOC designed to enable inmates to get out of long-term Ad. Seg.
 - The Segregation Incentives Program is a six-phase progression of behavior expectations and incentives to encourage appropriate conduct by the inmate. The inmates get benefits as they pass the phases, including a TV, phone calls to family, food items, etc.

- The Reintegration (RI) Program is a voluntary program for inmates already reclassified from Ad. Seg. to General Population (GP), but are resistant to engage in group activities common to a GP setting. There is a dedicated housing unit for RI inmates, where they are not required to engage in activities in a group setting.

Protective Custody (PC): Oftentimes, family members fear for the safety of their loved ones in prison and try to get them placed in Protective Custody. There are several steps both the MDOC and the inmate must take before placement in PC would be approved.

- The inmate must request protection formally. There will be a hearing, and the inmate will be expected to “name names” and provide specific information about the danger they are in.
- If approved, the MDOC must first move the inmate to another housing unit at the same facility.
- If the different housing unit does not work, the MDOC must transfer to a different prison.
- If the new prison still does not work, then, and only then, the MDOC can consider placement in one of the two PC units—at Bellamy Creek in Ionia or Oaks in Manistee.

How can I help my loved one . . .

1. **Obtain a Transfer?** There is very little a family member, or SADO, can do to secure a transfer, especially to a specific prison. However, you can tell your loved one to:
 - a. File a grievance regarding their Security Level. If they have been departed or waived to a higher security level, your loved one can file a grievance regarding their placement.
 - b. Refrain from getting tickets. There is virtually no way the MDOC would transfer if your loved one has a bad institutional record.
 - c. Work with his counselor and/or health care if he needs any of the above programs/services, and cannot get them at his current prison. After attempting to resolve with staff, he can file a grievance.
 - d. Be patient. Your loved one should understand that transfers, not based on the above reasons, are rare and that he is not being specifically targeted.
2. **Get out of the Hole?**
 - a. Advise him to file a grievance regarding his continued placement in Ad. Seg.
 - b. Encourage him to behave properly, and therefore pass through more phases of the Segregation Incentives Program. He will be more likely to be released if he has completed all six phases.
 - c. Work with his counselor to determine if the RI unit may be a good fit.
3. **Obtain Protective Custody (PC)?**
 - a. You must tell your loved one to file a formal request for protection and that he will have to share specific information.
 - b. Calling the prison and expressing concern about your loved one’s safety will not result in PC placement, let alone a transfer.
 - c. Advise him to file a grievance if a formal request was denied.
 - d. Be patient; try to make a new housing unit or new prison work, prior to placement in PC.
4. **The Legislative Corrections Ombudsman:** You, or your loved one, can always write to the Ombudsman. The following types of placement cases will generally be investigated (not general requests for transfers):
 - a. Long-term placement in Administrative Segregation (i.e. over one year);
 - b. Long-term placement in Level IV or V, when the inmate screens at I or II;
 - c. A need for transfer based on medical or mental health accommodations;
 - d. A need for transfer based on a religious diet;
 - e. A need for transfer based on a SPON being housed at the same facility;
 - f. A challenge to a STG (Security Threat Group/gang) label, which affects placement options.

COMMUNICATING WITH AN INDIVIDUAL INCARCERATED IN THE MDOC

Calling Inmates

- Inmates are able to place 20 personal telephone numbers on his/her Personal Allowed Numbers (PAN) list.
- Inmates can update and/or make changes to his/her PAN list on January 1, April 1, July 1, and October 1 each year.
- Inmates can make calls in the following ways:
 - Collect: Note: Collect calls cannot be made to cell phones, office phones, or hospital numbers.
 - Collect calls are billed to the called party each month. Please note: some local phone providers have a maximum amount limit for collect calls. Contact your local provider to see if there is a max. Otherwise, if there is a max, and you reach it, you will not be able to accept further collect calls from your loved one.
 - Prepaid Account: Pubic Communications Services (PCS) has a prepaid collect option, AdvancePay®. Friends and family members can create calling accounts to their personal phone numbers, and if an inmate calls these numbers, the charges are deducted from the called party's account.
 - Setting up a Prepaid account:
 - Visit www.offenderconnect.com or call 855.466.2832 to set up an AdvancePay® account.
 - PCS charges a \$3.95 Credit Card Transaction Fee for each funding transaction. This fee will be deducted. So, if you deposit \$20.00, your final total will be \$16.05.
 - Customers receiving calls from MDOC prisons may fund more than one prepaid account (phone number to be called) with a single transaction and single fee charge if each phone number to be funded is setup under the same web profile. Please contact PCS at 855-466-2832 if you are interested in funding more than one prepaid account with a single transaction.
 - There is no minimum deposit for transactions done via the web, IVR or over the phone.
 - There is no fee to close an account.
 - You may also fund an account at no charge via a cashier's check or money order. There is a \$25 minimum payment amount for funding by mail. Payments should be sent to: AdvancePay, PO Box 911722, Denver, CO 80291-1722. Please include your name, the name of the correctional facility where the inmate is incarcerated and your phone number. Note that it may take up to five (5) business days from when PCS receives payment for the funds to be added to the Prepaid Account.
 - Debit: Inmates can purchase debit minutes through the facility accounting process. Inmates can call any numbers, including cell phones, with their debit account.
- Cell Phones: For an inmate to be able to call a loved one's cell phone, they must use the Prepaid collect or debit systems. Traditional collect calls cannot be made to cell phones.

Writing to Inmates

- When writing to an inmate, you must use the name and address of the facility where the inmate is located, the inmate's name and MDOC number. Example:
John Smith, #987654
A Michigan Correctional Facility
1234 Prison Street
Anytown, MI 49999
- You can find out the inmate's number, facility, and address by visiting the Offender Tracking Information System (OTIS) at <http://www.state.mi.us/mdoc/asp/otis2.html>
- Mail may be denied if:
 - It is a threat to the security of the facility
 - May encourage criminal activity
 - It interferes with the rehabilitation of the inmate, which includes mail:
 - Violating federal or state law, or postal regulations
 - Containing physical contraband (anything the inmate cannot have)
 - Containing a criminal plan or conspiracy
 - Containing threats
 - Describing or depicting sexual acts or nude photographs
 - For the purposes of operating a business from within the facility.
- If there is a question as to whether mail will be denied, the best advice is to not send the questionable material.

Emailing Inmates

- Family members and friends can now send e-mails to Inmates through *JPay*.
- People who wish to send e-mails to inmates must have an account with *JPay*. Visit www.jpays.com to create an account.
- The customer (family member, friend, etc.) will have to purchase "stamps" or a subscription through *JPay* to send e-mails.
- Note: All mail is electronically scanned by *JPay* for security issues and then sent to the MDOC, where it is again reviewed prior to being released to the inmate.
- Inmates receive a printed copy of the message.
- By the end of 2012, inmates will likely be able to send e-mail.
- **NOTE: All e-mails are reviewed, monitored, etc., just like regular mail.** Know that MDOC will be reading the content of the e-mails.

Sending Money to Inmates

- NOTE: Deposited funds are subject to collection by the MDOC to pay for obligations imposed by the sentencing court or other obligations. Essentially, this means that all of your money may not go to the inmate for personal use in the facility. See below for further information about removal of funds.
- Money Orders and Guaranteed Checks (Cashier's Checks)
 - Make payable to *JPay* and mail to JPay, P.O. Box 531190, Miami Shores, FL, 33153.
 - You must include a Deposit Slip, which can be found in the Lobby and Visiting areas of each correctional facility, and on the MDOC website.
 - Any notes or letters included with the payment will be discarded by *JPay*.
 - Money orders/guaranteed checks may not exceed \$999.99 in value.
 - Questions regarding the processing of money orders/guaranteed checks should be directed to *JPay* at (866) 333-5729.

- Electronic deposit of funds
 - You must establish a JPay account to electronically deposit funds. Go to www.jpays.com to set-up an account.
 - Once the account is established, you may use any of the following options to deposit money in an inmate's account:
 - Online by using a credit/debit card through the www.jpays.com website.
 - By calling JPay at 1-800-574-5729. Agents are available 24 hours/day.
 - In person, with cash at the nearest MoneyGram Store, located inside Wal-Mart and CVS stores. Fill out an express blue form and use receive code 6902.
 - The inmate will be issued a receipt of funds that were received and notified if the funds are rejected for any reason.

Removal of Funds

- Funds are removed from an inmate's account under the following priority, unless otherwise ordered by a court:
 - Administrative correction to the account
 - Payment of victim restitution
 - Payment of child support
 - Payment of fees or costs pursuant to a court order, victim restitution, or the Prison Reimbursement Act
 - Payments of fees for medical services (co-pays)
 - Payment of all other institutional debts, including debts to the Inmate Benefit Fund
- All funds are used to satisfy the above debts, except as follows (in relevant part):
 - It would leave the inmate with less than \$10/month for personal use
 - A total of 50% of funds received over \$50/month will be removed for payment of restitution
 - A total of 50% of funds received over \$50/month will be removed for payment of criminal fees and costs
 - A total of 50% of funds received over \$50/month will be removed for payment of child support.
 - If the inmate has a medical co-pay or other institutional debt, 100% of the inmate's positive account balance will be collected initially, even if this leaves less than \$10/month. The remaining debt will be limited to 50% of future funds received.

Sending Property to Inmates

- Securepak: This program allows family members to send packages with goods to inmates. Visit <http://www.michiganpackages.com/> to learn more about what you can send.
- Ordering Property: Generally, property must be purchased by inmates through the inmate store or ordered from approved vendors.
 - However, the public may purchase allowable books, magazines, and other publications (they must be NEW publications) for inmates.
 - These must be sent directly to the inmate from an approved Internet vendor.
 - Some approved Internet vendors, such as Amazon.com, allow private individuals and other vendors to directly sell publications on their websites. That individual or vendor, not Amazon, then mails out the publication. Inmates can only receive these publications if the approved Internet vendor, i.e. Amazon, actually sold and mailed it.
 - **Simply, inmates are not allowed to receive the publication if sold and/or mailed by a private individual.**
 - Approved Internet Vendors: Amazon.com, BarnesAndNoble.com, EdwardRHamilton.com, prisonlegalnews.org, SchulerBooks.com, Walmart.com

PAROLE PROCESS

Earliest Release Date (ERD): An inmate's ERD is the minimum sentence, minus any applicable good time or disciplinary credits (not many inmates qualify for such credits). Inmates serving a non-parolable life sentence are not eligible for parole consideration, and inmates serving life with parole sentence have a different parole process.

Parole Guidelines Score (PGS): Prior to a parole hearing, an inmate's Parole Guidelines Score (PGS) is calculated. The PGS takes into account an inmate's: Active Sentence, Prior Criminal Record, Conduct, Statistical Risk, Age, Program Performance, Mental Health, and Housing. The PGS helps the Parole Board determine who has a high, average, or low probability of parole.

The Board may DENY parole without an interview if the inmate has a PGS of low probability of parole. The Board may GRANT parole without an interview if the inmate has a PGS of high probability of parole, except for inmates serving for a sex offense or an offense involving the death of a victim. Inmates with a PGS of average probability of parole will be interviewed before being granted or denied parole.

The Board may depart from the PGS range (i.e., deny parole to an inmate with a high probability of parole, or grant parole to an inmate with a low probability of parole). In these instances, there must be substantial and compelling reasons stated in writing.

Grievance Procedure: An inmate cannot grieve decisions by the Board. However, an inmate may grieve and challenge the calculation of the PGS and the accuracy of the information used to calculate the score.

Parole Eligibility/Lifer Review Reports: Prior to a parole hearing, each inmate has a Parole Eligibility Report (PER) prepared. The PER includes: Active offenses for which the inmate is serving; prior criminal record; overall adjustment while incarcerated or since the last Board review date, including a summary of all major misconducts; current status toward completion of program recommendation; adjustment while in Community Residential Programs or on parole; the inmate's cooperation in providing information regarding his/her financial assets; and the inmate's parole plans.

Parole Board Interviews:

1. Must be conducted at least 30 days prior to the parole eligibility date.
2. Interviews after a continuance must be done at least 30 days before the reconsideration date given by the Board.
3. If a parole interview is not conducted in a timely manner and the inmate is issued a continuance, the inmate's next parole interview must be scheduled as if the previous interview was conducted in a timely manner.

Interview Process:

1. Parole interviews are informal, non-adversarial proceedings, conducted with as much privacy as possible. Custody and security must be maintained at all times.
2. The inmate and a staff member familiar with classification and program matters must be present at the interview. This staff member will assist the inmate and Board by presenting/clarifying information in a fair and objective manner.
3. Assistance will be provided to those inmates who are hearing-impaired or cannot adequately communicate in English.
4. The inmate may have a representative of his/her choice present, but not another inmate or anyone less than 18 years of age. An attorney may be included as the representative, but

cannot provide legal representation at the interview and an inmate cannot have appointed counsel at public expense at the interview.

5. The Board member will review the inmate's file, including the PSIR, the most recent PER, relevant information, and any additional reports requested by the Board. The Board member will discuss with the inmate the nature and circumstances of the offenses for which s/he is serving, and any issues and concerns cited in the Notice of Intent. The inmate will be given reasonable opportunity to express his/her views.
6. A Department employee cannot make a recommendation to the Board for or against the parole of an inmate, except if the employee is the victim of the offense for which the inmate is serving. In which case, the employee/victim may address, or submit a written statement to, the Board.

Parole Board Decision to Grant or Deny Parole: The Board must send a decision to grant/deny parole using the Board Notice of Decision within 21 calendar days after the final decision is made, except when not administratively possible. If additional information is needed to make a decision, the Board may issue a deferral until such material is received. The reasons for deferral must be recorded on the Notice of Action.

Inmates denied parole will be reconsidered at 12, 18 or 24 months, as determined by majority vote of the Board or a panel of the Board. However, the Board may reconsider an inmate at 60 months (5 years) under 2 circumstances: the Board concludes the inmate's history of predatory, deviant, or violent behavior indicates there is a present risk to public safety; or the inmate was convicted of a firearm offense while on parole or violated a condition of parole by possessing a firearm.

***An inmate cannot appeal a denial of parole, or file a grievance.**

***The prosecutor from the county of conviction can appeal the grant of parole.**



BASIC RESOURCES FOR INMATES AND FAMILIES

(Please refer to Page 1 for more legal resources).

For Issues Related to Incarceration:

- Legislative Corrections Ombudsman
 - Agency that investigates issues affecting Michigan Department of Corrections (MDOC), inmates and corrections staff.
 - <http://council.legislature.mi.gov/lco.html>
Keith Barber, Ombudsman
124 West Allegan, Boji Tower – 4th Floor, P.O. Box 30036
Lansing, MI 48909-1536
Phone: 517-373-8573, Fax: 517-373-5550, Email: ombudsman@legislature.mi.gov

- American Friends Service Committee
 - **Advocates for Inmate and Their Families:** The program encourages dialogue among inmates and the general public, and works for humane reform of the system, and for the rights of inmates.
 - **If a client is having an issue inside the prison** (getting proper treatment, mold in cell, not getting programming etc.), ask them to write a grievance. If their issue is not addressed, have them send their grievance and the response to American friends with a description of the problem.
 - <http://www.prisoneradvocacy.org/>
Natalie Holbrook at nholbrook@afsc.org
124 Pear St #607
Ypsilanti, MI 48197
Phone: 734-761-8283

- Michigan Department of Corrections, Office of Legal Affairs
 - The Office of Legal Affairs coordinates, in cooperation with the Michigan State Police, the investigation of possible criminal or administrative violations of laws or rules by department employees.
 - <http://council.legislature.mi.gov/lco.html>
206 East Michigan Avenue
Grandview Plaza
P.O. Box 30003
Lansing, MI 48909
Phone: 517-335-1426

For “Big Picture” Issues Relating to Prison Reform:

- Citizens for Prison Reform
 - An agency that empowers inmate’s loved ones to bring quality humane treatment for the incarcerated. Meets regularly on the third Saturday of each month
 - www.micpr.org
P.O. Box 80414
Lansing, MI 48908
Phone: 269-339-0606, Email: citizensforprisonreform@yahoo.com

- Citizens Alliance on Prisons & Public Spending

- A non-profit organization that addresses the social and economic costs of the Michigan prison system. Publishes data in support of reducing the prison population while ensuring public safety
- www.capps-mi.org
CAPPS
403 Seymour Ave., Suite 200
Lansing, MI 48993
Phone: 517-482-7753, Email: capps@capps-mi.org

For Issues Related to Re-Entry:

- SADO Re-Entry Service Locator
 - <http://www.sado.org/locate/reentry>
Database that contains potential re-entry service providers within your community
- Michigan Parole Board
 - PO Box 30003
Lansing, MI 48909
Phone: 517-373-0270, Fax: 1-517-335-0039
- Michigan Reentry Law wiki
 - Website that contains manuals, guides and resources for a variety of reentry issues
 - http://reentry.mplp.org/reentry/index.php/Main_Page
- OLHSA (Oakland Livingston Human Service Agency)
 - Assists Oakland and Livingston County residents in a variety of areas, such as education, finances, housing, food assistance, health issues and more
 - www.olhsa.org
Phone: 248-209-2600, Email: info@olhsa.org

For Free or Low-Cost Legal-Aid Assistance:

- Michigan Legal Help
 - <http://michiganlegalhelp.org/> is a website that contains many self-help tools on topics ranging from housing, family law, expungement, tax, public benefits and more
- Legal Aid and Defender Office
 - Provides free legal service to Michigan's indigent population in civil and criminal matters. Serves Macomb, Oakland and Wayne Counties.
 - <http://ladadetroit.org/>
Toll-free at 877.964.4700

For Mental or Medical Health for Families or Inmates upon Release

- Visit the Department of Community Health Website at for a comprehensive list of a variety of mental and medical health agencies: <http://www.michigan.gov/mdch>
 - Community Mental Health Service Programs can be found at: http://www.michigan.gov/documents/cmh_8_1_02_37492_7.PDF
 - Primary Care Facilities can be found at: http://findahealthcenter.hrsa.gov/Search_HCC.aspx