



State Appellate Defender Office

2018



Fighting injustice through access,  
advocacy, compassion, and education.

ANNUAL REPORT

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# 2018 Appellate Defender Commission and Executive Management Team

## Commissioners:

Thomas W. Cranmer, Chair, Supreme Court Designee  
Thomas G. McNeill, Vice-Chair, Supreme Court Designee  
Thomas J. Adams, Governor's Designee  
Honorable William Caprathe, Michigan Judges Association Designee  
Judith Gracey, State Bar Designee  
Doug Mains, State Bar Designee  
Douglas Messing, Court of Appeals Designee

## Executive Management Team:

Jonathan Sacks, Director  
Michael L. Mittlestat, Deputy Director  
Marilena David-Martin, Training Director  
Bradley R. Hall, MAACS Administrator  
Kathy Swedlow, MAACS Deputy Administrator

# Introduction

In 2018, the State Appellate Defender Office (SADO) continued to provide high quality appellate representation to over 3,000 people convicted of crimes who could not afford their own attorneys. SADO's public defender division successfully represented clients in the Michigan Supreme Court and Michigan Court of Appeals, saved the State of Michigan millions of dollars through sentencing error corrections, achieved the exoneration of a client wrongfully imprisoned for decades, and represented "juvenile lifers," who had their first opportunity for freedom. SADO's assigned counsel division, the Michigan Appellate Assigned Counsel System, extended the successful regional list and uniform fee policy, increased the quality of assigned appellate counsel representation, and continued to show success through roster support and a unique Appellate Investigation Process. SADO's Criminal Defense Resource Center served as a training and education model for all levels of the criminal defense bar. As Michigan's indigent defense trial system undergoes critical reforms, SADO continues to serve as a model to achieve the best possible indigent defense.

**Former Deputy Director Jonathan Sacks started as Director and Appellate Defender in 2018.** Mr. Sacks most recently served as the first Executive Director of the Michigan Indigent Defense Commission where he oversaw the build-up of the office, the adoption and recommendation of the first eight minimum standards for trial level indigent defense, the publication of Michigan's first trial court and trial attorney survey on indigent defense, and the submission and approval of over 120 plans to comply with minimum standards from local funding units.

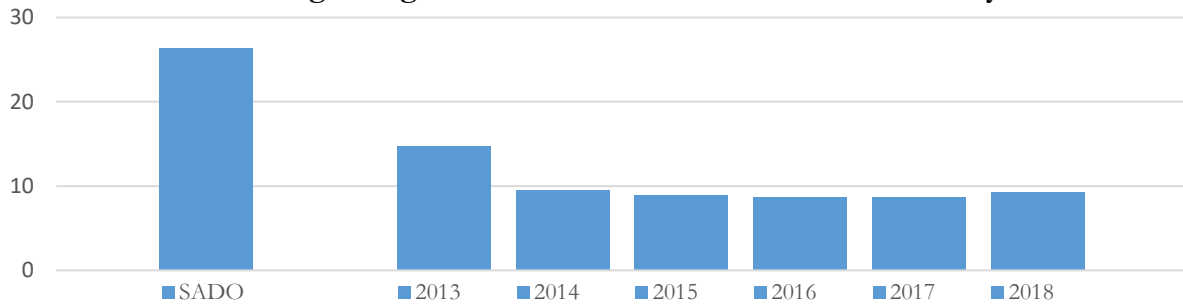
## State of Michigan Appellate Framework

Under Michigan's Appellate Defender Act, indigent defense services in felony appeals are provided by both "the state appellate defender . . . and locally appointed private counsel." MCL 780.712(4). The Act defines SADO's workload as "not less than 25% of the total criminal defense appellate cases for indigents pending before the appellate courts of this state," though the office may "[a]ccept only that number of assignments and maintain a caseload which will insure quality criminal defense appellate services consistent with the funds appropriated by the state." MCL 780.716. Intake is adjusted to reflect SADO's public defender division capacity, namely the number of cases all attorneys can handle under established case weighting and national caseload standards.

For non-SADO cases, the Act directs the establishment of "a statewide roster of attorneys eligible for and willing" to accept the remainder of assignments. MCL 780.712(6). In 1981, the Michigan Supreme Court established MAACS to "compile and maintain" that roster and maintain the system for selecting counsel and preparing appointment orders in all assigned appeals. AO 1981-7. In 2014, the Court consolidated MAACS with SADO for management purposes. AO 2014-18.

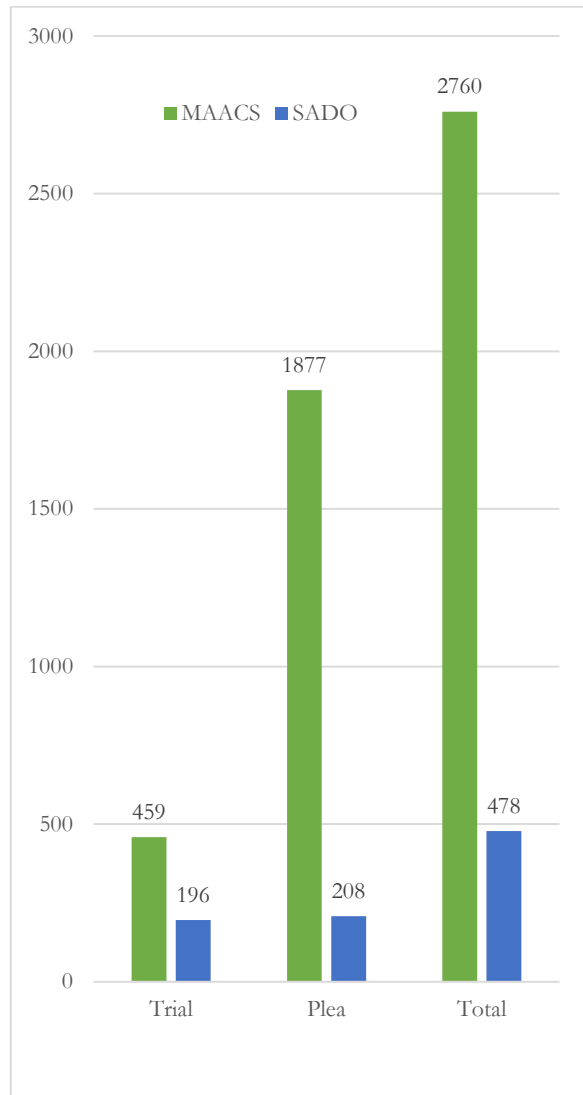
At its September 19, 2018 meeting, the Appellate Defender Commission formally authorized SADO to make intake and assignment decisions based on whether cases are "pending before the appellate courts of the state," as per MCL 780.716. This policy allowed the SADO public defender division to focus on more complex trial appeals and the MAACS roster to increase their plea appeal caseload, which allows budget predictability for funding units that pay the roster.

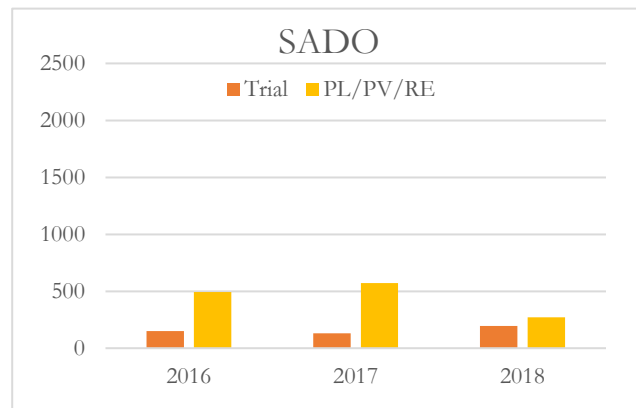
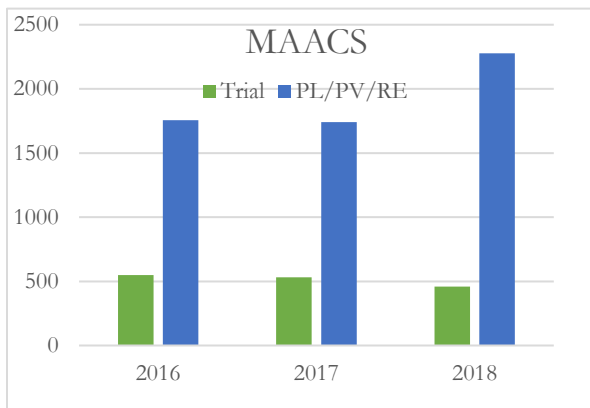
**Average Weighted Caseload Per MAACS Roster Attorney**



**Total Appellate Assignments, 2018**

	MAACS	SADO	TOTAL
Jury Trial	420 69.65%	183 30.35%	603
Waiver Trial	39 75.00%	13 25.00%	52
Plea	1877 90.02%	208 9.98%	2085
Resentencing	76 82.61%	16 17.39%	92
PV	325 87.60%	46 12.40%	371
6.500	15 68.18%	7 31.82%	22
Interlocutory	3 50.00%	3 50.00%	6
PPO	2 100.00%	0 0.00%	2
Evidentiary Hrg	3 75.00%	1 25.00%	4
JLWOP	0 0.00%	1 100.00%	1
Total	2760 85.24%	478 14.76%	3238





### 2018 SADO Defender Division Intake Profile

555 Cases Assigned to SADO

16.6% of the total number of cases processed by MAACS for the year

Profile of Assignments:

- Level 1 Appeals: 275 (15.7%)
- Level 2 Appeals: 280 (17.7%)
  - Pleas 46 (5.9%)
  - Trials 234 (29.2%)

These numbers represent well over 25% of cases pending before the appellate courts.

## Assigned Counsel System Highlights

MAACS is located in Lansing and consists of 2 attorney-administrators, 1 litigation support attorney, and a 3-person administrative staff. In 2018, MAACS processed appointment orders in 3,473 felony appeals, 565 of which were assigned to SADO and 2,908 of which were assigned to private attorneys. As to the latter, MAACS oversees a roster of approximately 150 lawyers—ensuring high-quality appellate representation and adherence to the Minimum Standards for Indigent Criminal Appellate Defense Services. See AO 2004-6.

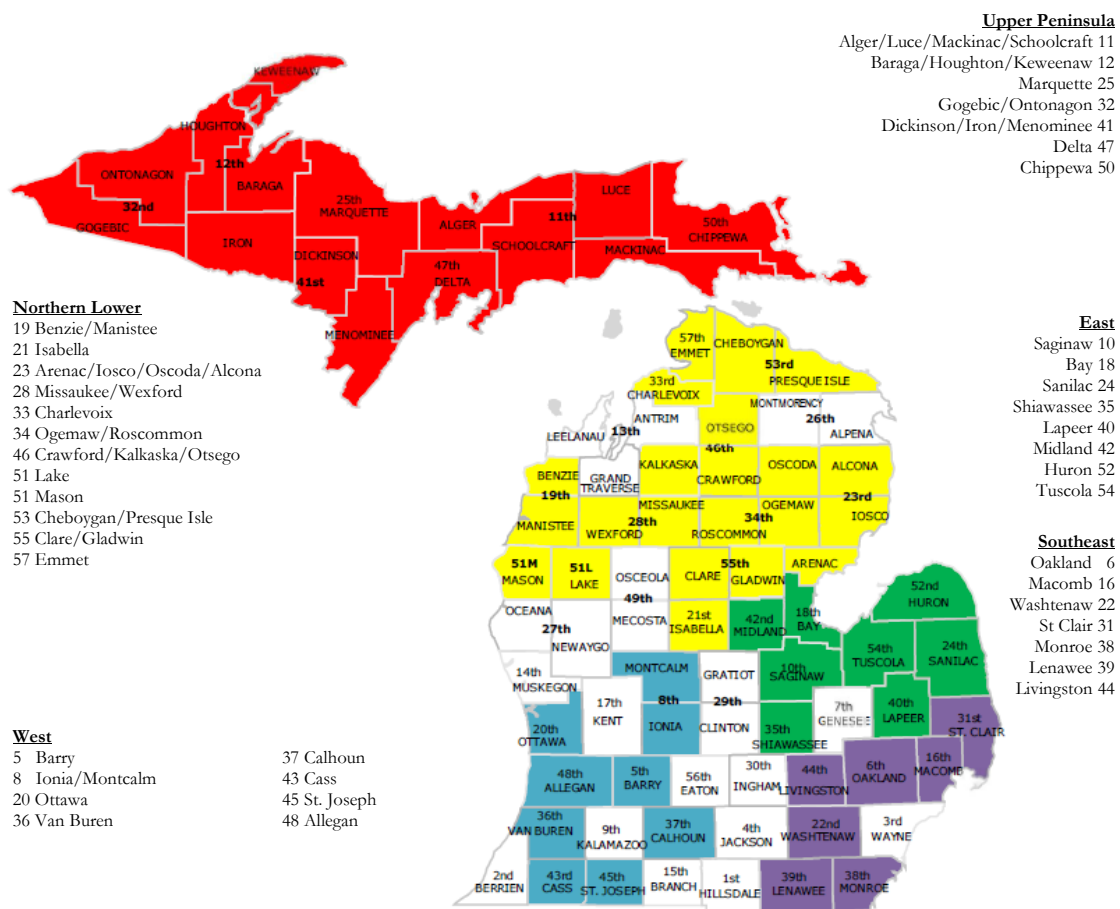
#### MAACS Staff:

Bradley R. Hall, Administrator  
 Kathryn R. Swedlow, Deputy Administrator  
 Jessica Zimbelman, Litigation Support Counsel  
 Jane Doyle, Assignment Coordinator  
 MariaRosa Palmer, Office Manager  
 Sabrina Schneider, Roster Coordinator

# Regional Assignment List Expansion: Streamlined Assignments, Uniform Attorney Fees, and Improved Quality

MAACS continues to expand its innovative regional assignment model. What began as a pilot project involving 14 trial courts in two distinct regions has grown to include 42 geographically and demographically diverse courts from all around the state. Under oversight of the Michigan Supreme Court and the Appellate Defender Commission, these courts have voluntarily partnered with MAACS to standardize case assignment and attorney fee policies and facilitate a more efficient administrative model. 57 distinct assignment lists of differing sizes have been replaced by 5 large regional lists maintained by MAACS, featuring a paperless process to pre-screen, select, and appoint counsel.

## 2018 Regional Assignment Lists




# Integrated Case Assignment and Management System: Innovation, Oversight, and Comprehensive Data Analysis

Since launching its popular new case assignment system in June 2017, MAACS has continuously maintained, upgraded, and expanded the new platform. New features allow the collection and analysis of real-time data from the moment of assignment until the payment of fees, including client correspondence, the nature and length of trial and appellate court pleadings, court appearances, fact investigation, the hours and expenses reported, and case outcomes, including sentencing and cost relief. This data helps MAACS measure the effectiveness and efficiency of roster attorneys, ensure that all assignments are properly resolved within the appropriate deadlines, and establish informed and sensible attorney fee policies.

MAACS continues to make improvements to the system, including development of a new online vouchering process to replace existing paper and carbon-copy vouchers, many of which have not been updated in decades. The system will allow MAACS and trial court staff to review vouchers more seamlessly and carefully. With an anticipated launch in the summer of 2019, the new voucher process will lead to prompt and accurate payments for counsel, more information and greater confidence for the trial courts, and significant client representation data for MAACS.

Pleadings

Pleading Type	Date Filed	Timely
 <a href="#">Trial Court - Motion/Brief - New Trial</a>	05/06/2019	Yes

Legal Services

Description	Date	Hours	Rate	Amount
Record Review - Lower Court Files	04/30/2019	2.0	\$45.00	\$90.00
Client Visit - Jail/Prison	05/03/2019	1.5	\$45.00	\$67.50
Trial Court - Motion/Brief - New Trial	05/06/2019	6.0	\$45.00	\$270.00
Total:		9.5		\$427.50


Travel Events

Description	Date	Hrs/Mi	Rate	Amount
Client Visit ( <a href="#">Map Trip</a> )	05/03/2019		(Round Trip)	
From: Attorney's Address 1133 E. Bristol Rd. Burton, MI 48529	Hours:	3.0	\$25.00	\$62.50
To: Cooper Street Correctional Facility 3100 Cooper Street Jackson, MI 49201	Miles:	170	\$0.34	\$57.80
Total Hours:		3.0		\$62.50
Total Miles:		170		\$57.80

Printing/Photocopying

Description	Date	Pages	Rate	Amount
Printing	05/02/2019	75	\$0.10	\$7.50
Attorney Comments: Printing lower court files using personal printer.				
Total:		75		\$7.50

Expenses

Description	Date	Amount
Filing Fees - Filed Motion for New Trial	05/06/2019	\$10.00
 <a href="#">View Receipt</a>		
Total:		\$10.00

Requested Time and Expenses for Payment

Total Legal Hours:	9.5	\$45.00	\$427.50
Total Travel Hours:	3.0	\$25.00	\$62.50
Total Mileage:	170	\$0.34	\$57.80
Total Expenses:			\$17.50
Total Requested Amount:			\$565.30




<b>Voucher</b>	<b>40</b>
<b>Attorney: Daniel D. Bremer (P23554)</b> Order: 12178      Richard E. Gray 6th Circuit Court      2017-263498 FC	
<b>Legal Services</b>	<b>\$427.50</b>
Travel Events	\$120.30
Printing/Photocopying	\$7.50
Expenses	\$0.00
Pleadings Filed / Required	0 / 1
Submit Voucher	\$555.30
 6th CC Voucher Information	

## Legal Services

[Add New Fee](#)

### Legal Services

Description	Date	Hours	Rate	Amount	
Record Review - Lower Court Files (90 pages)	04/30/2019	2.0	\$45.00	\$90.00	 
Client Visit - Jail/Prison	05/03/2019	1.5	\$45.00	\$67.50	 
Trial Court - Motion/Brief - New Trial	05/06/2019	6.0	\$45.00	\$270.00	 
<b>Requested Total:</b>		<b>9.5</b>		<b>\$427.50</b>	

<b>Voucher</b>	<b>40</b>
<b>Attorney: Daniel D. Bremer (P23554)</b> Order: 12178      Richard E. Gray 6th Circuit Court      2017-263498 FC	
Legal Services	\$360.00
<b>Travel Events</b>	<b>\$120.30</b>
Printing/Photocopying	\$0.00
Expenses	\$0.00
Pleadings Filed / Required	0 / 1
Submit Voucher	\$480.30
 6th CC Voucher Information	

## Travel Events

[Add New Travel Event](#)

### Travel Events

Description	Date	Rate	Amount	
Client Visit	05/03/2019	(Round Trip)		 
From: Attorney's Address	Hours:	3.0	\$25.00	\$62.50
To: Cooper Street Correctional Facility	Miles:	170	\$0.34	\$57.80
<b>Requested Total Hours:</b>		<b>3.0</b>		<b>\$62.50</b>
<b>Requested Total Miles:</b>		<b>170</b>		<b>\$57.80</b>

# Appellate Investigation Project and Litigation Support:

## From Grant-Funded Investigations to Permanent Comprehensive Support

From 2015-2018, MAACS received funding from a federal Byrne Justice Assistance Grant to form the Appellate Investigation Project (AIP), which extended investigative services and litigation support to the MAACS roster. This has led to new forensic testing of critical evidence, expert witness testimony, evidence of jury bias, challenges to the reliability of convictions, the presentation of new mitigating evidence for resentencing purposes (including juvenile life without parole resentencing proceedings), and multiple new trials.

The AIP has helped many MAACS roster attorneys improve the quality of representation and secure tangible results for their clients, including interviews of dozens of witnesses, assistance in obtaining or conducting evidentiary hearings in 11 cases, helping secure significant sentence reductions, and working collaboratively to win new trials after significant convictions.

The popularity of the AIP and its many successes demonstrate that appellate defenders need training and tools to improve their practices and secure positive outcomes for their clients. Upon the conclusion of grant funding for the AIP in 2018, MAACS created the permanent, full-time position of Litigation Support Counsel, staffed by former SADO attorney Jessica Zimbelman, to help ensure reliable access to investigators and expert witnesses, as well as other critical litigation support services. These include consultation and collaboration with roster attorneys, overseeing the expansion of a clearing-house of private investigators and expert witnesses, providing intense support and mentorship to newer MAACS roster attorneys to ensure they begin MAACS practice on solid footing, and overseeing a new Briefing Assistance Project for certain cases pending in the Court of Appeals.

### New trial for Port Huron woman

Prosecution witness's DNA found on weapon

BETH LEBLANC  
TIMES HERALD

A Port Huron woman is heading to trial again in the death of her former boyfriend.

Circuit Judge Michael West ordered a new trial for Judy Higley-Zuehlke after DNA from a prosecution witness was identified on a possible murder weapon.

In October, Michigan State Police matched DNA from a previously unknown donor to Robert Card, an initial suspect in the investigation of John Allen's death and a witness at trial.

The evidence, if presented at trial, could have produced a different outcome, West said.

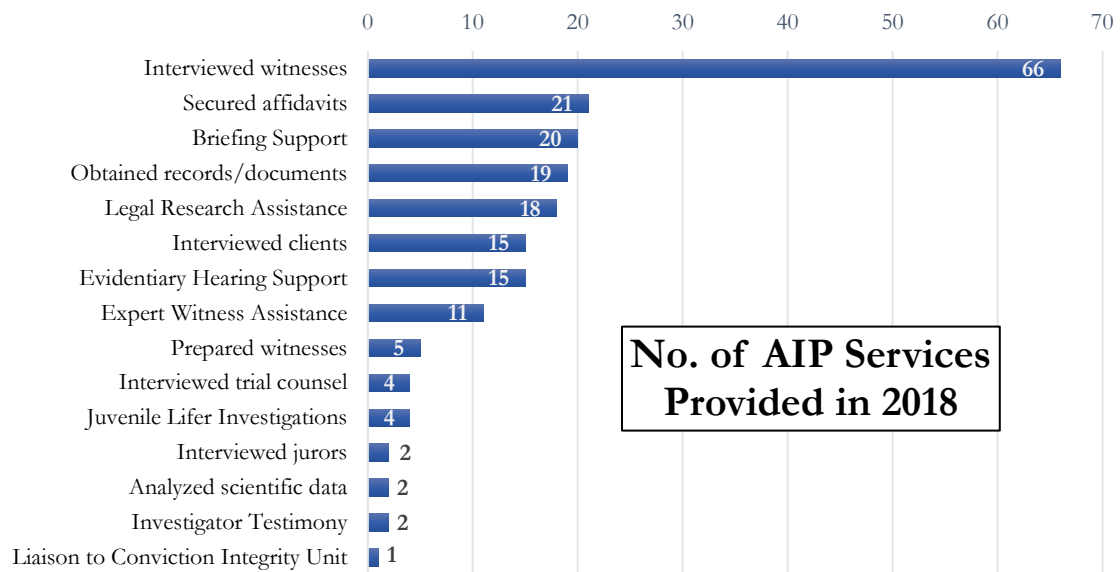
"The question is not whether the new evidence proves beyond a reasonable doubt Card is the murderer. Card is not on trial," West said in his 14-page



Judy Higley-Zuehlke

See NEW TRIAL, Page 2A

The Litigation Support Counsel also works in partnership with SADO's Criminal Defense Resource Center (CDRC) to provide comprehensive training to the MAACS roster on fact investigation, the use of expert witnesses, and other related topics.

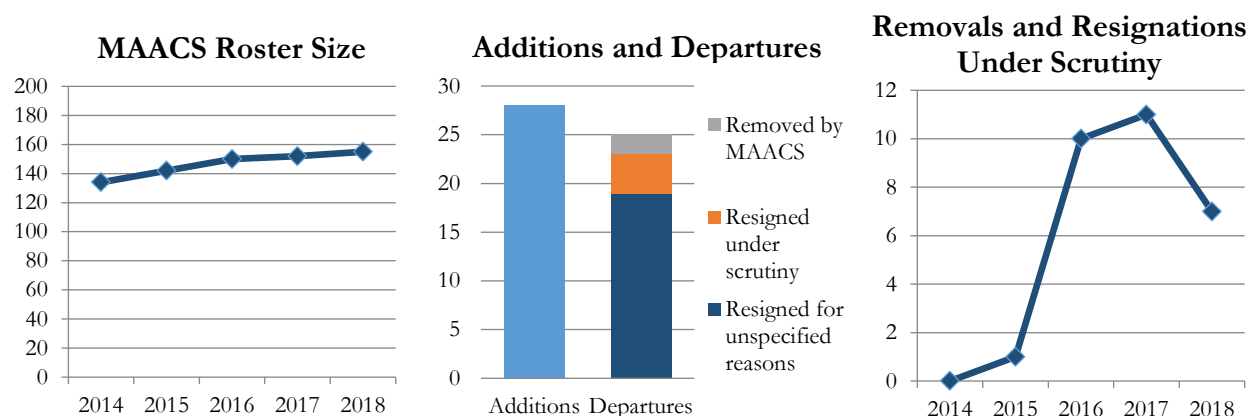


# Raising the Bar:

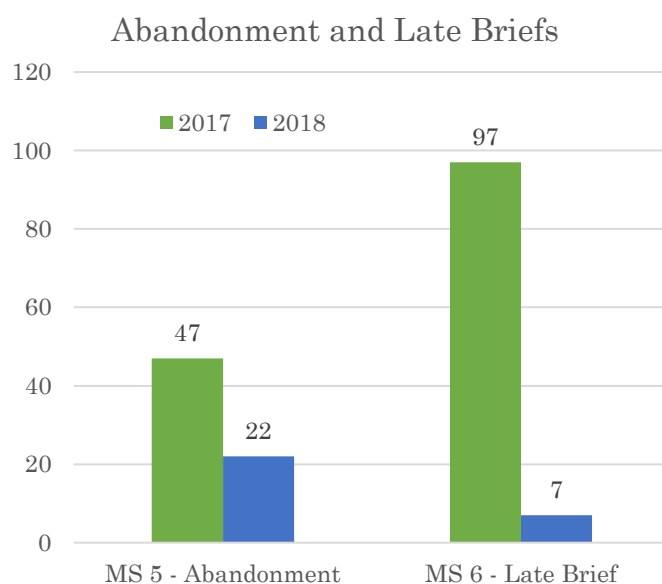
## MAACS Roster Oversight, Evaluation, and Retention

MAACS began 2018 with 152 roster attorneys. Through a competitive application process and implementing a new Recruitment and Diversity Plan, MAACS added 27 new attorneys to the regular roster and 1 attorney to the special assignment list. Throughout 2018, MAACS lost 19 attorneys through ordinary attrition, but also removed 2 attorneys for performance reasons, removed 1 attorney for failing to comply with CLE requirements, and saw 3 attorneys resign while under performance-related scrutiny. At the end of 2018, the roster consisted of 155 attorneys.

In 2018, MAACS continued its ongoing reviews of roster attorney work product, evaluating the work of attorneys who joined the roster in 2015. MAACS also continued to review the work product of those attorneys whose work had been reviewed once in recent years but had been identified as requiring additional review. Work product reviews consist of evaluating and summarizing the attorneys' history at MAACS, critiquing a wide representative sample of pleadings, and surveying case assignments for problems. Each review addresses multiple years of work, a level of detail that experience has shown to be necessary to identify and correct individual shortcomings and provide concrete direction for improvement. In addition, these comprehensive reviews help MAACS identify training priorities.



MAACS also saw dramatic results of its ongoing efforts to reduce the number of Minimum Standards violations, particularly those associated with Minimum Standards 5 (client abandonment) and 6 (preservation of oral argument). In 2017, MAACS identified 47 violations of Minimum Standard 5, and 97 violations of Minimum Standard 6. Many of these violations were discovered during the intensive rolling performance review process that began in 2015, and so not all violations occurred in 2017. Still, in response to these numbers, MAACS took two steps to reduce future violations. First, through focused training on deadlines and increased proactive mentoring with new roster attorneys, MAACS was able to reduce the 2018 Minimum Standard 5 violations to 22. Second, MAACS arranged with the Court of Appeals to be copied on letters to attorneys, alerting them to late filings and the loss of oral argument. MAACS now contacts attorneys as soon as a possible violation of Minimum Standard 6 occurs and encourages the attorney to take steps to preserve oral argument. Both efforts have led to dramatic results, with Minimum Standard 5 and 6 violations reduced by 47% and 93%, respectively.



Minimum Standards Violations, 2018	Violations
Standard 2: Absence of proper client consultation	1
Standard 3: Failure to raise claims of arguable merit	4
Standard 5: Abandonment	22
Standard 6: Failure to preserve oral argument by filing timely	7
Standard 8: Failure to advise client of case outcome and further options	2



# Public Defender Division Highlights

SADO has offices in Detroit and Lansing, and consists of 18 attorneys, 1 investigator, 1 mitigation specialist, and 11 support staffers. Four of those attorneys and an additional 2 attorneys and 4 mitigation specialists compose a separate Juvenile Lifer Unit (JLU).



*SADO said good-bye to a number of staffers and welcomed several other new faces during 2018:*

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**Desiree Ferguson**, an Assistant Defender at SADO for over 26 years, retired in May and was named the Legal Director of the Detroit Justice Center.

**Peter Van Hoek**, an Assistant Defender at SADO, retired in August after a 44-year career at SADO.

**Jessica Zimbelman**, an Assistant Defender at SADO since 2012, began as the first-ever MAACS Litigation Support Counsel in October.

**Brett DeGroff**, an Assistant Defender at SADO since 2012, accepted a position as Senior Law Clerk for Michigan Supreme Court Justice Meghan Cavanaugh.

**Steven Helton** joined SADO in June as an Assistant Defender. A 2013 graduate of Wayne State University Law School, Steven worked in private practice for 4½ years, primarily handling criminal appeals as a MAACS roster attorney before joining SADO.

**Lindsay Ponce** accepted a position as an Assistant Defender handling direct appeals for SADO. After serving for five years as a public defender in Missouri, Lindsay worked in SADO's JLU from 2016 till June of 2018.

**Charleen Hutson**, who most recently worked as a Project Coordinator for Neighborhood Legal Services Program in Washington D.C., joined SADO in October as a Mitigation Specialist for direct appeal clients.

**Tina Olson** joined SADO's JLU in January after working for decades as a public defender in Wyoming, where she specialized in criminal appeals and juvenile lifer and capital sentencing litigation. Tina became Manager of the JLU in August.

**Rebecca Hahn**, who most recently worked as a teaching fellow at the University of Michigan Law School's Innocence Clinic, joined the JLU as an attorney in August.

**Claire Ward** joined the JLU in October after working nearly 4 years as a public defender in Massachusetts.

**Haley McMullan** joined the JLU as a mitigation specialist in November after working for the past three years in that role with the Federal Defender's Office in Chicago.

# SADO Provides Outstanding Service to Clients, Achieving Remarkable Results

SADO continued with its core function of providing excellent legal representation to clients in the trial and appellate courts of the state. Despite an overall drop in the number of appellate cases being handled, SADO saw an extraordinary number of cases accepted for review by the Michigan Supreme Court. SADO attorneys continued to creatively and zealously present effective and innovative legal arguments through high quality briefing, oral argument, and trial court litigation in courts throughout Michigan. SADO attorneys, investigators, and mitigation specialists worked to discover important evidence that undermined the integrity of convictions and helped courts craft just, lawful, and accurate sentences for clients.

## *Overview and Highlights of SADO Advocacy:*

### SADO in the Michigan Supreme Court

- 12 clients represented in the Michigan Supreme Court
- 16 clients obtained orders or opinions granting relief by the Michigan Supreme Court
- Significant improvements in the law, including:
  - *People v Kennedy*. Indigent defendants afforded meaningful right to expert witness resources at trial
  - *People v Tremel Anderson*. Protection from meritless prosecutions by affording judges more authority to dismiss cases at preliminary examination
  - *People v Wilder*. Better enforcement of MRE 404(b) by limiting prejudicial bad acts evidence prosecutors may introduce at trial
  - *People v Randolph*. Clarification of appellate standards for evaluating prejudice in ineffective assistance of counsel claims and under plain error standard of review
  - *People v Smith*. Limits on prosecutors' power to infringe on legislative branch individuals through coercive plea bargaining

### SADO in the Michigan Court of Appeals

- 426 major pleadings filed
- 121 oral arguments held

- Relief obtained for 56 clients
- Important rights protected, including:
  - Right to access favorable “Brady” evidence:  
*People v Butsinas*. Reversed multiple CSC convictions based on prosecutor’s failure to provide defense with complainant’s inconsistent written statements
  - The right to counsel at trial:  
*People v DeJong*. Reversed conviction for operating a meth lab where defendant required to represent himself at trial without a valid waiver of counsel.
  - The right to a fair trial free of prosecutorial misconduct:  
*People v VanDeusen*. Reversed conviction for assault with intent to do great bodily harm based on improper closing argument by prosecutor
  - The right to receive information needed to enter knowing, intelligent pleas:  
*People v Kyle Boldrey*. Vacated second degree murder conviction based on failure by trial court to properly advise client of the maximum penalty for the offense

## SADO in Michigan’s Trial Courts

- 170 motions filed statewide
- Hearings held for 227 clients, including legal motions, evidentiary hearings, and resentencings
- Relief granted for 90 clients
  - 6 clients received plea withdrawal
  - 2 clients received a new trial
  - 2 clients were exonerated
  - 40 reduced sentences
- Numerous errors identified and corrected, including among many others:
  - Ineffective assistance of trial counsel:  
*People v Thorton*. New trial granted on multiple CSC 1 charges based on finding that trial counsel was ineffective in failing to object to improper vouching testimony by lead detective
  - Perjured testimony at trial:  
*People v Lewis*. Prosecution agreed to vacate and dismiss convictions for home invasion and larceny based on newly discovered evidence that complaining witness had falsely accused client of illegally entering her home



- Use of unreliable, junk science at trial:  
*People v Siggers-El*. Prosecution agreed to vacate and dismiss first degree murder conviction based on newly discovered evidence that destroyed credibility of crime lab firearms expert
- Unfair and unlawful sentences:  
*People v Easternwood*. Resentencing granted and 3 consecutive 45-70 year sentences for first degree CSC reduced to concurrent terms of 15-40 years, representing a reduction of 120 years off minimum and maximum prison terms.

#### 328-year cumulative reduction in minimum sentences through sentence advocacy

- 180-year total reduction in minimum sentences for Juvenile Lifer clients
- 148-year total reduction in minimum sentences for all other clients

**\$11,485,625** in potential savings to state from reduced incarceration costs as a result of sentence reductions (based on average incarceration costs of \$35,000 per year, per individual)

### Darrell Siggers

In 1984, Darrell Siggers was convicted of first-degree murder and sentenced to life in prison for the shooting and killing of James Montgomery. A Detroit Crime Lab ballistics analyst testified at trial that seven shell casings found at the scene had been fired from the same weapon, and that shell casings and a bullet that had been recovered from wood molding in an apartment across the hall from Siggers' apartment, came from the same weapon. The murder weapon was never recovered.

In 2015, SADO filed a motion for relief from judgment, challenging the ballistics testimony at trial. The motion was supported by a report by David Townshend, a firearms expert, which criticized the testimony of the DPD ballistics expert, finding it "unbelievable" and "highly unlikely" that there was a match between the casings found at the crime scene and the bullet and casings found near Mr. Siggers' apartment. After a second firearms expert also questioned the accuracy of the DPD ballistic expert's testimony, and the Conviction Integrity Unit of the Wayne County Prosecutor's Office further reviewed, the Office agreed to vacate and dismiss Mr. Siggers' convictions.

On August 30, 2018, Mr. Siggers was released after spending more than 34 years in prison.

# Juvenile Lifer Unit Starts Contested and Complex Hearings

SADO's Juvenile Lifer Unit (JLU) continued with its third year of the monumental task of representing nearly two thirds the state's 366 individuals who were serving life without parole sentences for crimes committed while they were juveniles. Those individuals became eligible for resentencing under the United State Supreme Court's landmark decisions in *Miller v Alabama* and *Montgomery v Louisiana*.

Funded by year-to-year allocations and in-kind contributions from its regular budget, SADO formed the Juvenile Lifer Unit in 2016, which by the end of 2017 consisted of six full-time attorneys, two full time mitigation specialists, and contractors to focus on representation and mitigation for hearings, where clients will either receive sentences that will allow eventual release from prison or life without parole. The JLU has progressed through three phases of an estimated five-year project:

## Phase I (2016-17) – The Project Begins:

- SADO appointed to represent 193 juvenile lifers
  - 61 designated for term of years sentences (TOY) (31.6%)
  - 132 designated for life without parole (68.4%)
- Massive investigative and mitigation efforts made, negotiations pursued

## Phase II (2017-September 2018) -- TOY Clients Resentenced:

- 85 clients received the opportunity for release
- 38 clients received parole

## Phase III (September 2018-?) -- The *Miller* Hearings Begin:

- Court decisions provide guidance, allowing *Miller* hearings to move forward
- *Miller* hearings for 8 clients on the verge of commencing within four months
- *Miller* hearings held for 5 clients

Although much work remains, significant progress was made by the JLU in 2018, which transitioned toward litigating the most complicated and rigorously-contested cases, many of which will require robust *Miller* resentencing hearings.

## JLU Case Progress in 2018

- 130 clients await resentencing as of January
  - Prosecutors seeking life without parole against 121 individuals
  - Prosecutors agreed not to seek life without parole for 9 individuals after negotiations with JLU and receipt of robust mitigation presentations

- 10 individuals resentenced to a term
  - Average minimum sentence imposed: 33.38 years
  - Average age of clients at time of resentencing: 47.10
  - Average number of years served at time of resentencing: 24.41
- Beginning in September, *Miller* hearings held for 5 clients
  - 4 individuals resentenced to a term of years rather than life
  - 1 decision pending
- 19 clients released on parole or discharged from parole
- 180 years combined reduction in minimum sentences for 14 clients resentenced
- **\$6,257,012** in potential savings to the state (based on average costs to house a prisoner of \$35,000 per year)

## Reentry of Juvenile Lifers

In 2018, SADO's Project Reentry served approximately 80 juvenile lifer clients at various stages of litigation while in prison and after coming home. SADO's 2018 Project Reentry team included: part-time Reentry Coordinator Allison Gorine, MSW, graduate interns from the University of Michigan School of Social Work and Wayne State University School of Social Work, and additional undergraduate interns and volunteers. The project was managed by Training Director Marilena David-Martin and Mitigation Attorney Katherine Root, LMSW. The Project Reentry team assisted clients with building comprehensive reentry plans, assisting with parole preparation, and providing post-incarceration support. Project Reentry hosted 10 reentry workshops for formerly incarcerated individuals on topics such as building credit, paying taxes, forming positive relationships with family, nutrition, and employment. Project Reentry published 11 volumes of *The Drum*, a newsletter containing information relevant to formerly incarcerated individuals. Project Reentry also began the launch of a Reentry Mobile Application, led by a volunteer web designer, and the development of a Reentry Guidebook for use by the public. The app and guidebook will be published in 2019.

## Postconviction DNA Project Renewed for a Fourth Time, Expands Mission

SADO was awarded a National Institute of Justice Bloodsworth grant to fund the Project for an additional two years, with the new grant-funded work commencing in January of 2018. New Project Attorney Ayda Razaian-Nojani and Project Assistant Terry Huhn focused their efforts on completing the screening of the 726 remaining cases involving untested rape kits from the Detroit Police Crime Lab and, in appropriate cases, arranging for DNA testing. The goal is also to expand the Project's

reach to other jurisdictions throughout Michigan, where nearly 2,000 untested sexual assault evidence kits have been discovered. Progress during 2018 includes:

- 133 cases received and processed
- 50 cases reviewed and closed
- 83 cases under active screening and investigation as of the end of 2018
- 593 cases left to investigate from the City of Detroit
- The Project is in preliminary discussions with two additional jurisdictions to expand the rape kit screening process outside the City of Detroit

## SADO Hosts Family Information Sessions for the Community

SADO hosted four Family Informational Sessions in 2018 in Detroit and Lansing. SADO attorneys informed family and friends of the incarcerated about the appellate process, how to navigate various policies and procedures of the MDOC, how to stay in contact with incarcerated loved ones, and provided information on how to access various resources.

## SADO's Criminal Defense Resource Center Trains Trial and Appellate Assigned Counsel

Training Director Marilena David administers SADO's Criminal Defense Resource Center. In 2018, CDRC conducted live and live streamed trainings throughout the state and administered over 60 hours of training for defense attorneys. All of CDRC's training programs are complimentary for attendees. Video recordings of the trainings and the training materials are made available to subscribers on [www.SADO.org](http://www.SADO.org). CDRC offered the following trainings throughout the year:

1. March 2018 – Part I: Utilizing the Preliminary Examination and Part II: Sentencing Mitigation Bring Your Own Case Workshop (Detroit)
2. March 2018 – SADO's Web of Knowledge and Basic Microsoft Technology for Lawyers (in partnership with CDAM) (Detroit)
3. April 2018 – Fetal Alcohol Syndrome Disorder (Lansing and livestream)
4. April 2018 – Essential Information on Incarceration, Parole, and Reentry (Lansing and livestream)
5. May 2018 – Appellate Writing Workshop (Detroit)

6. May 2018 – Biomechanics of Shaken Baby Syndrome (Detroit and livestream)
7. June 2018 – PowerPoint for Trial Lawyers (Detroit)
8. October 2018 – MAACS New Attorney Orientation (Detroit)
9. October 2018 – Appellate Assigned Counsel Fall Training (Auburn Hills and Lansing)
10. October 2018 – Six Tips for Sentencing (livestream)
11. November 2018 – SADO's Web of Knowledge and Basic Microsoft Technology for Lawyers (in partnership with CDAM) (Boyne)
12. Monthly Virtual Case Rounds for MAACS Roster Attorneys (online)

## CDRC Partnerships

CDRC continues to partner with various organizations to provide high-quality training to the defense bar. In 2018, CDRC's training partners included:

- Criminal Defense Attorneys of Michigan (CDAM)
- Genesee County Bar Association
- Michigan Appellate Assigned Counsel System (MAACS)
- MAACS Appellate Investigation Project
- Michigan Department of Corrections
- National Association for Public Defense
- Prosecuting Attorneys Association of Michigan
- Wayne County Criminal Advocacy Program
- Wayne State University Law School
- Western Michigan University Cooley Law School

CDRC assisted in the production and sponsorship of the Spring and Fall CDAM conferences.

The Spring conference was held in Troy in March 2018 and the Fall conference was held in Boyne City in November 2018. Approximately 435 attorneys from all over Michigan attended the two conferences. CDAM's Trial College, held in Bay City in August 2018, had approximately 40 attendees. SADO offered 13 scholarships to attendees based on demonstrated need.

CDRC continued its partnership with the Wayne County Criminal Defense Bar Association to provide the Attorney-to-Attorney support in Michigan's busiest criminal venue, Wayne County Circuit Court. Four CDRC research attorneys provided approximately 20 hours of service weekly and fielded over 1,200 inquires during the year.

# SADO's CDRC Publishes Print and Web Resources for the Defense Bar and Community

In 2018, SADO obtained a grant from the State Bar of Michigan Foundation to engage in website modifications that would improve access to training and resources. A part-time developer was hired to work on the project and will continue work into 2019.

CDRC continues to host an online criminal defense forum and publishes an updated series of Defender Books each year. In 2018, ten volumes of the Criminal Defense Newsletter were published and included summaries of notable state and federal appellate cases.

In 2018, CDRC produced and published a new Defender Evidence Manual and began production of a Defender Search and Seizure Manual.

## SADO and MAACS Award Attorneys for Excellence

MAACS Roster Attorneys Cecilia Quirindongo Baunsoe and Melissa Krauskopf were awarded the 2018 Barbara R. Levine Award for Excellence in Appellate Advocacy. Likewise, SADO Assistant Defender Jacqueline McCann was awarded the 2018 Norris J. Thomas Award for Excellence in Appellate Advocacy.

The Awards are presented annually to SADO Assistant Defenders and attorneys on the MAACS roster who demonstrate extraordinary commitment on behalf of appellate assigned clients and the criminal justice system.

### Cecilia Quirindongo Baunsoe and Melissa Krauskopf:

Since joining the MAACS roster in 2013, Ms. Baunsoe and Ms. Krauskopf have distinguished themselves as thorough and conscientious





advocates for their appointed appellate clients. For this reason, and because they maintain a law partnership together, MAACS turned to them in 2018 to assist in several related cases in which indigent individuals had been denied their appellate rights due to a systematic breakdown. Ms. Baunsoe and Ms. Krauskopf readily accepted the challenging assignments and worked tirelessly to restore their clients' rights and pursue meaningful relief in the trial and appellate courts.

**Jacqueline McCann:**

A twenty-year veteran of SADO, Ms. McCann has made countless and immeasurable contributions to SADO, the legal defense community, and to improvements to the law. She has been involved in some of the major Supreme Court decisions in the past decade, particularly in the area of sentencing law, including *People v Babcock*, which defined the right and scope to appeal guideline sentence departures, *People v Francisco*, which provided the right to resentencing for most guideline scoring errors, and *People v Holder*, which barred the widespread practice of amending judgments of sentences without a hearing. Ms. McCann has also handled some of the most challenging, and controversial appeals in recent times, including representing the high profile MSU sports physician Larry Nassar, and Larry Wafer, who was convicted of homicide in a racially-charged case in which he asserted self-defense.

Ms. McCann serves on the SADO court rules committee and the SCAO forms committee, where she has been instrumental in developing innovative and much-needed improvements to the court rules and forms. She has trained thousands of defense attorneys within SADO and throughout the state through programs sponsored by the CDRC, MAACS, CDAM, and numerous local bar associations. She has also taught courses for the Michigan Judges Institute as well as the Criminal Appellate Practice Clinic at Wayne State University Law School. McCann is a well-respected mentor and friend to all at SADO and is most deserving of this award.