



State Appellate Defender Office

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SADO Juvenile Lifer Unit Report: FY 21

I. BACKGROUND AND INTRODUCTION

A decision of the United States Supreme Court in January of 2016 created an extraordinary one-time constitutional requirement involving 364 children serving life without parole sentences in Michigan. *Montgomery v Louisiana*, 577 US ___ (2016) requires resentencing of all individuals serving unconstitutional mandatory sentences of Life Without Parole for offenses committed as youth. Recognizing a shortage of qualified and willing volunteer and county-appointed counsel to handle these complex cases, SADO agreed to represent 193 of Michigan's 364 juvenile lifers, many former clients. 132 of these clients have now received new sentences, and almost all no longer serve Life Without Parole.

Since 2016, SADO has successfully represented these clients through a dedicated Juvenile Lifer Unit.

Phase one – 2016: The project began

The first phase of the work began in January 2016, immediately after the *Montgomery* decision. Michigan prosecutors had six months to designate each of Michigan's 364 cases into one of two categories: first, individuals eligible for resentencing to a Term of Years, and second, individuals in which the prosecution again seeks a Life Without Parole sentence.

The SADO Juvenile Lifer Unit was formed, and it began the massive task of gathering decades-old files and records, investigating and triaging cases, consulting with clients, and presenting mitigation packages to prosecutors as they deliberated whether to seek a Term of Years Sentence, or Life Without Parole again.

Phase two - 2017-2018: Clients resentenced to Term of Years

Despite the United States Supreme Court's admonition that Life without Parole sentences for juveniles should be "rare," Michigan prosecutors decided to seek Life Without Parole sentences in 229 of the 364 juvenile lifer cases in Michigan. Nearly 70%, or 132 of SADO's clients, were originally designated for Life Without Parole sentences by prosecutors.

During FY 2017 and 2018, phase two of SADO's project began, as resentencing hearings for those designated for Term of Years sentences were held.

Phase three – Starting 2019: Contested resentencing hearings

In 2019 and 2020, the Michigan Supreme Court resolved significant legal questions on the process for resentencing hearings. The most contested, intricate, and time-consuming sentencing hearings for juvenile lifers have now started, where clients face the longest possible penalty in Michigan: Life Without Parole in prison for an offense committed as a child.

With the COVID-19 pandemic and the resulting shutdown of many in person court proceedings through much of FY 21, the pace of these contested hearings slowed. COVID impacted SADO's juvenile lifer clients, and one of SADO's clients, [William Garrison](#) died of COVID-19 weeks before his parole.

II. SNAPSHOT OF WORK TO DATE

193 SADO initial Juvenile Lifer Clients in October 2016

- 61 originally designated for Term of Years sentences, where prosecution agrees a life without parole sentence is not appropriate (31.6%)
- 132 originally designated for Life Without Parole (68.4%)

Progress to Date:

- 44 additional clients where prosecutors withdrew motions seeking Life Without Parole as a result of negotiation and mitigation evidence presented by SADO, 17 of these in FY 21.

- 127 Term of Years clients resentenced
 - ▶ Approximate average sentence: 32.34 years
 - ▶ Approximate average time served: 27.34 years
 - ▶ Approximate average age at time of resentencing: 45.36 years
- There have been twenty-eight contested hearings for SADO clients where prosecutors have pushed for another Life Without Parole sentence. Twenty-one have resulted in term of years sentences, five resulted in a Life Without Parole sentence, and two await decisions. One of the Life Without Parole sentences has been reversed on appeal.
- 63 clients released, either on parole or discharged

Financial Benefits:

- Estimated cumulative reduced sentences for 127 clients no longer serving life sentences (based on an estimated average lifespan of 64 years): 1,562.5 years
- Estimated savings in incarceration costs: \$56,781,973.28
- Return on investment: 13.1:1 (1314%)

What Remains of Original 193 Cases:

51 clients await resentencing hearings:

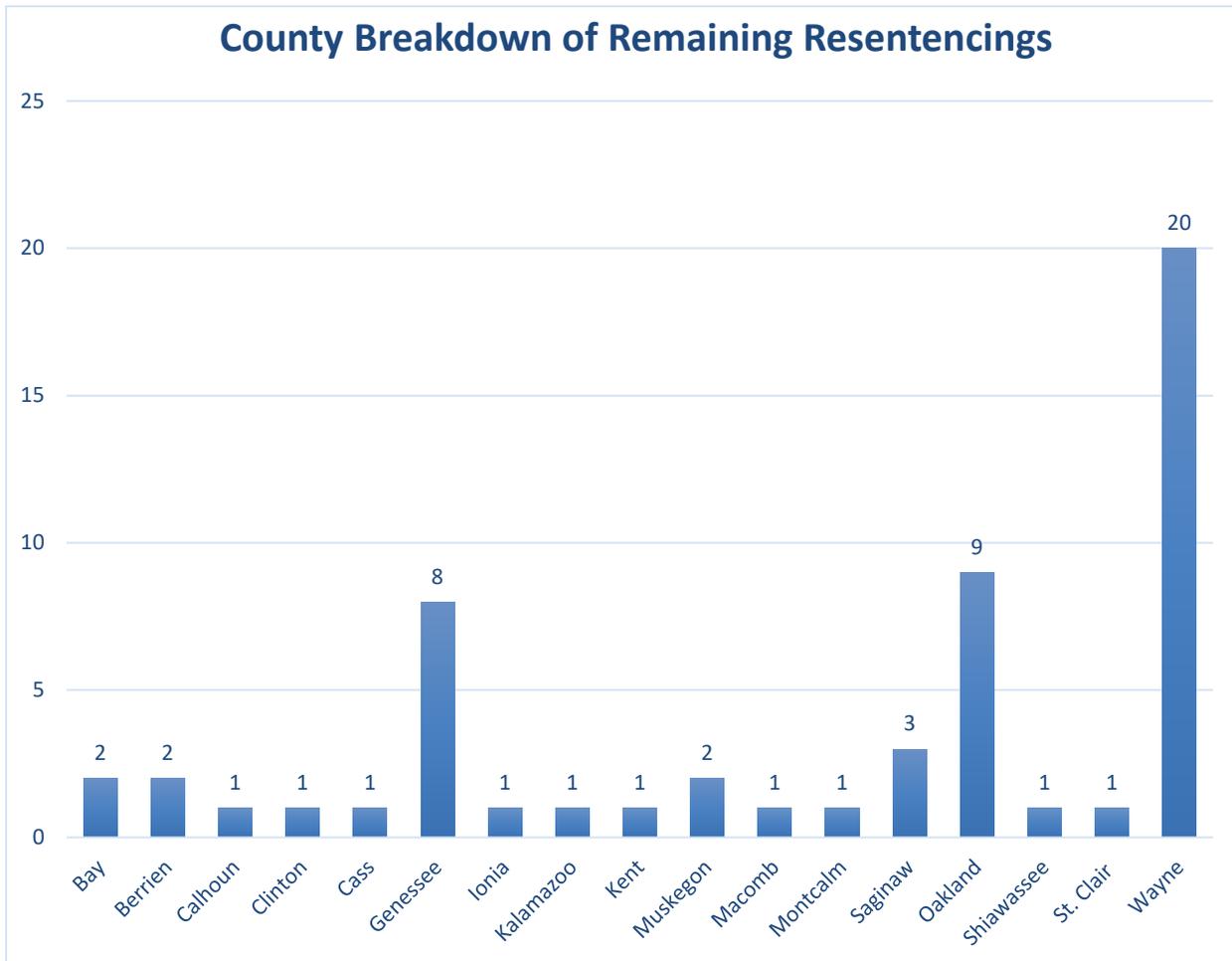
- 7 Term of Years sentencing hearings
- 44 intensive hearings under “*Miller v Alabama*” where the prosecution pushes for a Life Without Parole sentence and SADO advocates for a Term of Years sentence

- Time served of clients awaiting resentencing

- ▶ 10 years or less: 3 clients (5.3%)

- ▶ 10-25 years: 35 clients (62.5%)

- ▶ 25+ years: 18 clients (32.1%)



Appeals

- There remain a number of potential resentencing appeals (SADO and non-SADO)
- SADO can handle a limited number of Term of Years resentencing appeals for clients it currently represents in trial court, in appropriate cases and with informed consent of the clients
- SADO is able to accept conflict-free appointment to handle certain Life Without Parole appeals.

Nine appellate cases of *Miller* hearings have been assigned to SADO (Macomb, Muskegon, Oakland, & Kent Counties). SADO has successfully resolved four of these appeals, resulting in relief and new sentencing hearings for each of those clients.

Other Juvenile Lifer Unit Projects:

- “Project Reentry” develops Comprehensive Reentry Plans to assist clients for their return to the community and facilitates a Reentry Workshop Series. The former Chair of the Michigan Parole Board has called the work of SADO’s Juvenile Lifer Unit an “asset” to their work.
- The Juvenile Lifer Unit has conducted multiple trainings for attorneys in Michigan representing Juvenile Lifer clients. The Unit has also been invited to participate and help instruct at trainings for judges organized by the Michigan Judicial Institute.

III. COST PER CASE FOR JUVENILE LIFER SENTENCING HEARINGS

Type of Case Work	Avg Hours Per Case	Hourly Rate for Work (includes benefits/taxes)	Avg Costs
Legal	322	\$73.89	\$23,792.58
Mitigation / Investigation	239	\$50.30	\$12,021.70
Research/Document Review	26	\$44.63	\$1,160.38
Clerical	55	\$50.59	\$2,782.45
Average Total Per Case	642		\$39,757.11

Estimated Cost for the 132 Resentencing Hearings, either Term of Years agreements or contested Miller Hearings, where prosecutors again push for Life Without Parole.	\$2,663,726.37
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1. The cost per case for SADO averages \$39,757.11. This amount totals \$2,663,726.37 for 132 sentencing hearings.¹
2. To date, SADO’s Juvenile Lifer Unit has spent approximately \$4.12 million (FY 2016, \$300,000 supplement, FY 2017 \$700,000, FY 2018 \$700,000, FY 2019, \$700,000, FY 20 \$841,900, and FY 21 \$881,100). The \$2.6 million estimated cost accounts for about two-thirds of that amount. SADO has spent the other one-third on initial work for the remaining clients, 44 of whom require much more intensive hearings, where the prosecution is seeking Life Without Parole sentences, and multiple appeals of Life Without Parole sentences.
3. Hours per case are calculated through September 23, 2021.
4. Significant additional in-kind contributions have been made by SADO, including staffing hours, equipment, and administrative costs.
5. SADO has successfully advocated for 1,562 years in reduced prison terms for juvenile lifer clients. The return on investment in SADO’s Juvenile Lifer Unit to date is 13.1:1 (1314%) from \$56,781,973 in savings to the Michigan Department of Corrections (Based on an estimated cost \$35,000 per year to incarcerate each inmate).

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¹ This number also includes some cases where work was done even though SADO ultimately withdrew from representation because of a conflict of interest or a decision to retain private counsel.