



State Appellate Defender Office

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## FY 2020 Appropriations Request

### Overview

**The State Appellate Defender Office (SADO) is tasked with meeting the statutory and constitutional requirements to represent poor people appealing their criminal convictions.**

SADO consists of three divisions: The public defender division, the Michigan Appellate Assigned Counsel System (MAACS), and the Criminal Defense Resource Center (CDRC). The public defender division is the defense counterpart to the Appellate Division of the Michigan Attorney General's Office. It is charged with handling at least 25% of Michigan's pending criminal appellate caseload. The cost of handling these appeals is borne by the state as part of SADO's overall budget. The remainder of the state's criminal appeals are assigned to county-funded private attorneys, administered and overseen by MAACS. The CDRC provides training to the state's court-appointed trial and appellate counsel.

SADO's budget of approximately \$7.6 million funds a staff of 49, including attorneys, support staff, investigation and mitigation professionals, and MAACS roster administration. Repeated one-time funding of \$700,000 has covered a special unit for representation of clients serving unconstitutional life without parole sentences for offenses committed as youth.

The public defender division of SADO is a model office, achieving outstanding results for clients by relying on a holistic and client-centered approach to appellate advocacy. In contrast, MAACS roster attorneys face ongoing challenges to secure even minimal funding and resources from counties, and despite extensive improvements achieved in recent years, continue to suffer from many of the same structural impediments as trial-level indigent defense counsel in Michigan.

On June 21, 2018, Governor Snyder signed the FY 2019 Budget approving \$84 million to implement county and municipal compliance plans for improving trial level indigent defense and meeting minimum standards established by the Michigan Indigent Defense Commission (MIDC). SADO's Director, Jonathan Sacks served as the first Executive Director at the MIDC, and played an instrumental role in the compliance plan and standard setting process. **The FY 2020 Budget is an opportunity for a much more modest investment to also ensure effective representation of counsel on appeal, as required by the United States and Michigan Constitutions.**

## FY 2020

- **The Executive Budget provides continued funding for the Juvenile Lifer Unit, with an increase to \$841,900 now that contested hearings have started.** With most of the actual litigation just beginning, this is the absolute minimum needed. The Michigan Supreme Court recently resolved significant legal questions on the nature of resentencing hearings. The most contested, intricate and time-consuming sentencing hearings for juvenile lifers have now started. To represent these clients, SADO requests an increase of \$141,900 in this annual funding, for a total of \$841,900. This amount allows SADO to properly take on the work of the contested hearings and shift two part-time positions – a mitigation specialist and the reentry coordinator – to full-time.
- **The Executive Budget also provides an increase of \$457,200** to allow hiring of four attorneys for the public defender division to represent indigent clients appealing convictions they received after trial. This amount represents a fraction of what has been recently committed to trial-level indigent defense.
- These attorneys will allow the public defender division of SADO to represent more than 40% of clients appealing their trial court convictions and maintain representation of some plea appeal clients. Many of those cases would otherwise be handled by roster attorneys and paid for by individual counties.
- The adjustment to the number and type of appeals that SADO's public defender division handles shifts costs from the counties to the state. Counties would fund fewer expensive and unpredictable trial appeals. These savings would allow the counties to redirect appellate counsel reimbursement to approach recommended MIDC hourly rates of \$100 to \$120 per hour for attorney payments. This increased rate would then allow MAACS to recruit and retain roster attorneys with the resources necessary to provide the same high-quality representation as SADO's public defender office.
- **This investment is the first step in the creation of a model system for indigent appellate defense** whereby SADO represents 90% of clients appealing trial convictions and 25% of clients appealing plea convictions. Over the next few years, SADO ultimately seeks an increase of \$3,153,292 for hiring of eighteen attorneys, two investigators, two mitigation specialists, and eight support staffers. Shifting one-time Juvenile Lifer Unit funding to the general fund allows this process to begin because this money will be available for future public defender caseload enhancement.

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