



Michigan State Appellate Defender Office
and Criminal Defense Resource Center

2014 Annual Report

The 2014 Annual Report of the State Appellate Defender Office is submitted to the Appellate Defender Commission, Michigan Supreme Court, Michigan Legislature, Michigan Governor and Michigan's citizens on behalf of the clients served, and the extraordinary staff of SADO's Detroit and Lansing offices.

2014 Appellate Defender Commission

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SADO Mission Statement

SADO's mission is to seek the best possible outcomes for clients, providing high-quality, holistic, timely, and effective assistance of appellate counsel. As a system stakeholder representing criminal defense, SADO seeks improvement in the administration of criminal justice. As an agency possessing legal expertise, SADO seeks improvement in the quality of defense representation and resources by providing support services and training to assigned criminal defense counsel throughout the State of Michigan.

SADO Goals

1. Handle no less than 25% of assigned indigent criminal appeals, arising from all circuits in Michigan
2. Seek the best possible outcomes for clients, providing high-quality, timely and effective assistance of appellate counsel
3. Provide support services and training to assigned criminal defense counsel, in all circuits of Michigan
4. Provide cost-effective services that represent a good return on investment to Michigan taxpayers
5. Advocate for improvements in the administration of justice

2014 Highlights & Executive Summary

Caseload capacity maintained above 25% statutory floor

With the support of three consecutive budgetary increases, SADO has regained and maintained its ability to represent no less than 25% of those seeking appeal of their felony convictions through appellate assigned counsel. This statutory floor, contained in MCL 780.716, was achieved for the first time in 2013 after more than a decade of underfunding. Five new staff attorneys completed their first year of handling their own caseloads by the end of 2014, significantly boosting production. At year's end, two new staff attorneys started their own caseloads after a year of intense training and supervision. For the year, SADO handled a 27.7% share of the total statewide appellate caseload.

Holistic defense of clients a continued priority

In keeping with the client-centered representation standards that were incorporated into SADO's internal operating procedures in 2013, a variety of 2014 activities focused on holistic defense. For the first time, the entire staff came together for a 1.5-day training event that started with tours of four prisons in Jackson, Michigan. This intense experience, shared with co-workers, led to robust discussions of what it means to be a public defender, and how to remain motivated. SADO's social worker presented on client communications, and other trainers addressed ethical dilemmas that commonly occur. Holistic defense activities included SADO's highly successful Community Outreach Family Nights, special quarterly meetings intended to help friends and family of incarcerated persons. And, a workgroup of attorneys and interns developed resources of value for

persons seeking reentry to a community following incarceration. Posted online and organized by community, the resources were carefully selected in the areas of housing, employment and other support services.

Client exonerations obtained

The ultimate evidence of appellate value occurs when a client is exonerated: in 2014, SADO attorneys achieved several. In each case, SADO performed extraordinary investigation that led to a decision that the client was innocent of the conviction charges, resulting not only in appellate reversal but dismissal of charges. All three clients have been released from prison:

- **Terrence Jose** served four years of his 20 to 40-year sentence after an Oakland County Circuit Court jury convicted him for the sexual assault of his daughter. In July 2013, the trial judge ordered new trial for ineffective assistance of counsel for failure to properly admit evidence of impeachment from cell phone text messages. The Court of Appeals granted SADO's motion to dismiss the appeal and in 2014, the prosecution dismissed all charges.
- **Jimmie Nelson** served four years of his 25 to 50-year sentence in a high-publicity Iosco County cold case murder prosecution that rested on circumstantial evidence. In 2014, the Court of Appeals ordered a new trial based on newly discovered evidence of a different suspect and a stipulation with the prosecution for relief. The prosecution subsequently dismissed all charges.
- **LeAnn Thain** served three years of her sentence to probation on a 2011 conviction for embezzlement and fraudulent use of a financial device. The Court of Appeals ordered a new trial for ineffective assistance of counsel, for failing to offer evidence supporting Ms. Thain's testimony that she had permission to spend her mother's money. The prosecution dismissed all charges in 2014 and Ms. Thain was exonerated.

While exonerated clients obviously obtained the most benefit from the appeal, the State of Michigan also saved the cost of further incarceration: for the two incarcerated clients, they were likely to serve at least 37 additional years before release. A modest price tag for the savings is \$1,300,550 (2014 cost of prison = \$35,150/year). For the wasted eight years served by these clients, the price tag is a conservative \$281,200.

Sentencing relief hit new high for savings

One of the most meaningful measures of effective advocacy for SADO clients is change in sentences that actually impact the length of time in prison. When a SADO attorney obtains appellate sentencing relief that provides an earlier release date for a client, both justice and savings result. Savings are computed as a function of cumulative reductions in "real" minimum terms for SADO clients, multiplied by the cost of prison incarceration. In 2014, reductions in clients' minimum terms amounted to about 225 years, producing taxpayer savings of approximately \$7,368,914.

Most sentencing relief is based on correction of errors in computing sentencing guidelines, and it often is obtained quickly by returning first to the sentencing judge. Corrections result in sentences that are more accurate, and just, based on facts of the case and offender characteristics.

Social worker sentencing contributed to reduced prison terms

A major contributor to the good client outcomes from resentencing in 2014 was SADO's use of a social worker. Originally grant-funded, the position was sufficiently successful that it was added through general fund support in 2014. The social worker focuses on resentencings that are ordered to correct errors occurring at the original sentencing. Particularly for clients with short or "straddle cell" sentences, she investigates non-prison placements including community service, probation, mental health treatment, jail, and work or school release. In addition to work on cases that resulted in a cumulative total of 37.59 years reduced from minimum terms, the social worker worked on numerous parole hearings. A modest price tag on the taxpayer savings from reduced prison terms in social worker cases is \$1,321,289 (a subset of the overall sentencing relief reported above).

SADO's social worker also worked on direct appeals for approximately 6 clients who were juveniles when sentenced to life without parole. Pursuant to the United States Supreme Court's decision in *Miller v Alabama*, 567 US ____ (2012), these clients will receive resentencing opportunities, and an opportunity at a term-of-years or parolable life sentence.

Juvenile lifers remained on hold

With the exception of the modest number of clients on direct appeal, about 370 juveniles awaited final decision on whether the *Miller* decision, above, would be retroactively applied. SADO represented approximately 100 of these clients, and was actively engaged in litigation of retroactivity during 2014.

Original DPD Crime Lab project wrapped up

SADO devoted considerable resources, through federal grant funding, to defense review of cases that involved Detroit's Crime Lab, wrapping up the process in 2014. With a focus on disputed ballistics evidence, the project employed two attorneys to review files, evaluate and submit Detroit Crime Lab evidence for retesting, and provide appellate legal representation in cases involving potentially unreliable evidence processed by the Crime Lab. Since 2008, SADO's Crime Lab Unit reviewed 1,043 cases, sending 25 referrals to the Wayne County Prosecutor's Office for new testing of evidence by the Michigan State Police. Five of these referrals resulted in new trials for SADO clients, including one exoneration:

- **Jerah Arnold:** New trial in murder case where Detroit Crime Lab incorrectly matched shell casings at a murder scene to a weapon in Mr. Arnold's home.
- **Orande Thompson:** New trial in murder case where Detroit Crime Lab wrongly ruled out an accidental shooting.
- **William Lee:** Exoneration in sexual assault case where the Detroit Crime Lab failed to test DNA that exonerated Mr. Lee.

- **Nathan Jacobs:** New trial in a murder case where the Detroit Crime Lab missed evidence of a second murder weapon.
- **Karecio Eatmon:** Withdrawal of no contest plea to assault with intent to murder where the Detroit Crime Lab incorrectly matched the bullet in a shooting to a weapon in Mr. Eatmon's home.

Federal Byrne grant projects examined rape kits, jump-started appellate investigation

SADO obtained renewed Department of Justice funding for a two additional years on its Postconviction DNA Testing Project. One attorney actively screened the backlog of 11,000 untested sexual assault kits from the Detroit Police Department, seeking evidence potentially exonerating convicted defendants. A significant number of cases remained under investigation at years' end.

With a broader focus on forensic evidence, SADO obtained funding for a Wrongful Conviction Unit, continuing the successful "First Response" project that identified and responded to clients' post-conviction claims of innocence or wrongful conviction. The project will employ an attorney in 2015 to intensively investigate cases immediately upon assignment to SADO, maximizing opportunities for record development in the trial court.

SADO merged with MAACS for management purposes

Following more than a year of analysis and review of operations and goals, the Appellate Defender Commission recommended merger of SADO with MAACS (Michigan Appellate Assigned Counsel System) to the Michigan Supreme Court, which had issued the original order authorizing MAACS as a separate agency in 1981. In Administrative Order 2014-18, released on September 17, 2014, the Court agreed that merger would "promote efficiency and improve the administration of assigned appellate counsel for indigent defendants." Commentary to the order noted the Commission's "recognition of the benefits of the defender-administered model; as in the federal system, this model produces cost-effective and coordinated management of resources." The Court directed that the Appellate Defender serve as administrator of MAACS, and that the Commission return with additional recommendations on the system, in 2015.

The merger order supported the continued development of resources for MAACS, including a major data development project and overhaul of processes for assignment of cases to the roster of private attorneys accepting criminal appellate assignments. The offices will share space in Lansing, as well as IT and HR services. A strategic plan for MAACS development will include system stakeholders in discussions intended to solve procedural problems, improve access to investigators and experts, and improve case outcomes for MAACS clients.

Systemic reform at trial level launched through MIDC

Michigan's Governor Rick Snyder appointed members of the Michigan Indigent Defense Commission (MIDC) in June of 2014, following adoption of passage of the Act in 2013. The fifteen-member commission will oversee and develop statewide standards for local trial-level systems, which will continue to bear primary funding responsibility, with some state funding opportunities. Standards are expected to largely track those contained in the ABA's Ten Principles

for Effective Defense Services, including independence in selection of assigned trial-level attorneys, and representation by the same attorney throughout the case. At year's end, the Commission was just getting started, with optimism running high. SADO's Deputy Director, Jonathan Sacks, was hired to serve as Executive Director of the office. See www.michiganidc.gov.

Staff members recognized for extraordinary achievement

During 2014, SADO staff members were recognized by others for exceptional work, leadership or accomplishments:

- Director Dawn Van Hoek received the State Bar of Michigan's Champion of Justice Award, given for integrity and adherence to the highest principles and traditions of the legal profession; superior professional competence; and extraordinary professional accomplishment that benefits the nation, state, or local community.
- Ms. Van Hoek also received the 2014 Jean King Award from the Women Lawyers Association of Michigan, given for visionary leadership in the face of opposition and outstanding efforts toward the advancement of women and the legal profession.
- SADO's Crime Lab Unit received the Criminal Defense Attorneys of Michigan's Justice for All Award in 2014, given for the contributions of a group or individual in the form of legal representation or other extraordinary service. The named awardees were Michael Mittlestat, Marilena David-Martin, Peter Van Hoek, Kim McGinnis, Linda Borus and Dan Signs.
- Marilena David-Martin received the State Bar of Michigan's Regeana Myrick Outstanding Young Lawyer Award, presented annually to a young lawyer in Michigan who has demonstrated many of Ms. Myrick's best qualities, including an overwhelming commitment to public service, exemplary service to the State Bar, and exceptional professional accomplishments.
- Christine Pagac received the 2014 Norris J. Thomas award for outstanding appellate advocacy, given by the Appellate Defender Commission.
- Frank Rodriguez received the 2015 Outstanding Adult Learner award for overcoming past obstacles and demonstrating that he is a determined, bright, and inspirational student at Lansing Community College.

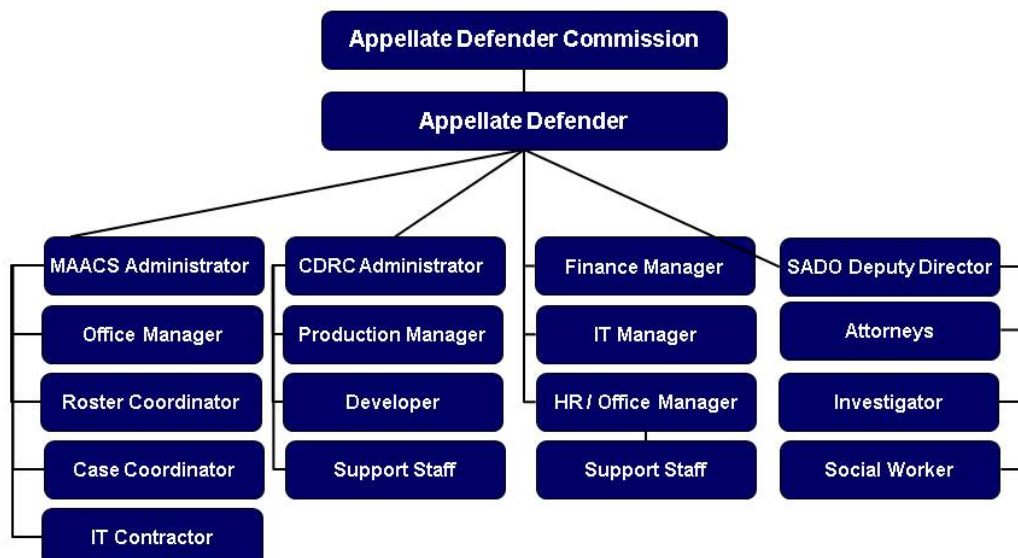
History and Governance

Michigan's State Appellate Defender Office (SADO) was formed in 1969 as a result of a grant submitted by the Michigan Supreme Court to the Law Enforcement Assistance Administration (LEAA), through the Michigan Commission on Law Enforcement and Criminal Justice. After receiving the grant, the Court issued Order 1970-1, formally establishing SADO's governing board, the Appellate Public Defender Commission. The order was a recognition of the need to provide quality, efficient legal representation to indigent criminal defendants in post-conviction matters, on a statewide basis. In 1979, legislation took effect to formally establish the office, which was charged with handling approximately no less than 25% of statewide appellate assignments, and with providing legal resources to the criminal defense bar. The legislation set intake limits, providing that SADO may accept only that number of cases that will allow it to provide quality defense services consistent with the funds appropriated by the Michigan Legislature. The 1979 legislation also ratified the seven-member Appellate Defender Commission, placing it within the State Court Administrator's Office, and charging it with developing and supervising a coordinated system for regulating the assignment of counsel for all indigent criminal appeals in Michigan. MCL 780.711 et seq.

Pursuant to that charge, the Commission held public hearings and determined that a mixed system of full-time defenders and assigned private attorneys would best serve the long-term interests of the entire system. It created the Michigan Appellate Assigned Counsel System (MAACS) in 1985 to provide appellate training and maintain the roster of appointed counsel, and to coordinate case assignments between the private bar and SADO. The Appellate Defender Commission also developed standards for administration of the system and for performance of criminal appellate counsel, which were adopted by the Michigan Supreme Court in 1981. 412 Mich lxv. Administrative Order 1989-3 mandated that all circuit courts comply with Section 3 of the standards regarding appointment of appellate counsel.

In Administrative Order 2014-18, the Michigan Supreme Court ordered the merger of SADO and MAACS under the management of the Appellate Defender, and oversight of the Appellate Defender Commission.

2014 Organizational Chart



Goal 1: Handle no less than 25% of assigned indigent criminal appeals, arising from all geographic regions of Michigan

a. Intake, type of assignments, geographic spread of assignments

SADO's statutorily-defined workload is "not [be] less than 25% of the total criminal defense appellate cases for indigents." Significantly, 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 of new assignments is adjusted as needed to reflect SADO's capacity, namely the number of cases all attorneys can handle under established case weighting and national caseload standards.

SADO's intake in 2014 was approximately 28% of the total appellate assignments statewide. SADO's percentage of the statewide caseload had not exceeded 25% in over twelve years, reaching 26.8% in 2002. By 2013 though, funding had been restored for new attorney hiring and an increased caseload. At the conclusion of 2013, new attorneys were promoted to independent caseloads, and as a result, in 2014 SADO was able to handle 28% of the appeals.

As in previous years, SADO's 2014 caseload consisted of appeals from guilty pleas, trials, and probation violations. While most assignments were made on the basis of a formula applied by the Michigan Appellate Assigned Counsel System (MAACS), tied to SADO capacity, some assignments qualified as "complex" or "special" due to their length or difficulty. Most of these "out-of-rotation" assignments to SADO were made on the basis of a court's request.

Assignments to SADO arose from every county in Michigan, except those reporting no or a very low number of appeals.

Total Appellate Assignments			
Year	Total Appeals Statewide	Appointments to SADO	Percent of Appeals Assigned to SADO
2014	3203	887	27.7%
2013	3331	641	19.2%
2012	3185	514	16.1%
2011	3267	586	17.9%
2010	3576	737	20.6%
2009	3336	570	17.1%
2008	3789	603	15.9%
2007	4212	590	14.0%
2006	4404	763	17.3%
2005	3875	564	14.6%
2004	3420	588	17.2%
2003	3625	696	19.2%
2002	3217	861	26.8%
Total	46440	8600	18.5%

Appellate Assignments by Case Type						
Year	Pleas, PVs, & Resentencings Statewide	SADO's % of Pleas, PV's, & Resentencings	Level 3 Trials* Statewide	SADO's % of Level 3 Trials	Levels 1 & 2** Trials Statewide	SADO's % of Level 1 & 2 Trials
2014	2254	28.3%	622	22.0%	327	34.3%
2013	2421	16.7%	549	24.4%	312	30.8%
2012	2298	12.8%	568	25.2%	319	24.1%
2011	2382	12.5%	527	33.4%	358	31.6%
2010	2637	16.3%	555	33.3%	384	32.0%
2009	2447	11.6%	471	31.6%	418	32.5%
2008	2772	9.5%	544	32.4%	473	34.7%
2007	3030	9.6%	626	24.6%	556	26.3%
2006	3238	12.2%	569	28.3%	597	34.8%
2005	2777	11.6%	624	18.3%	474	26.8%
2004	2350	15.0%	551	18.1%	519	26.0%
2003	2207	16.8%	755	23.0%	663	22.8%
2002	2031	24.2%	594	35.2%	592	27.2%
Total	32844	11.5%	7604	22.9%	5992	25.7%

* Level 3 trials: appeals from jury-trial-based convictions with statutory maximums over 15 years.

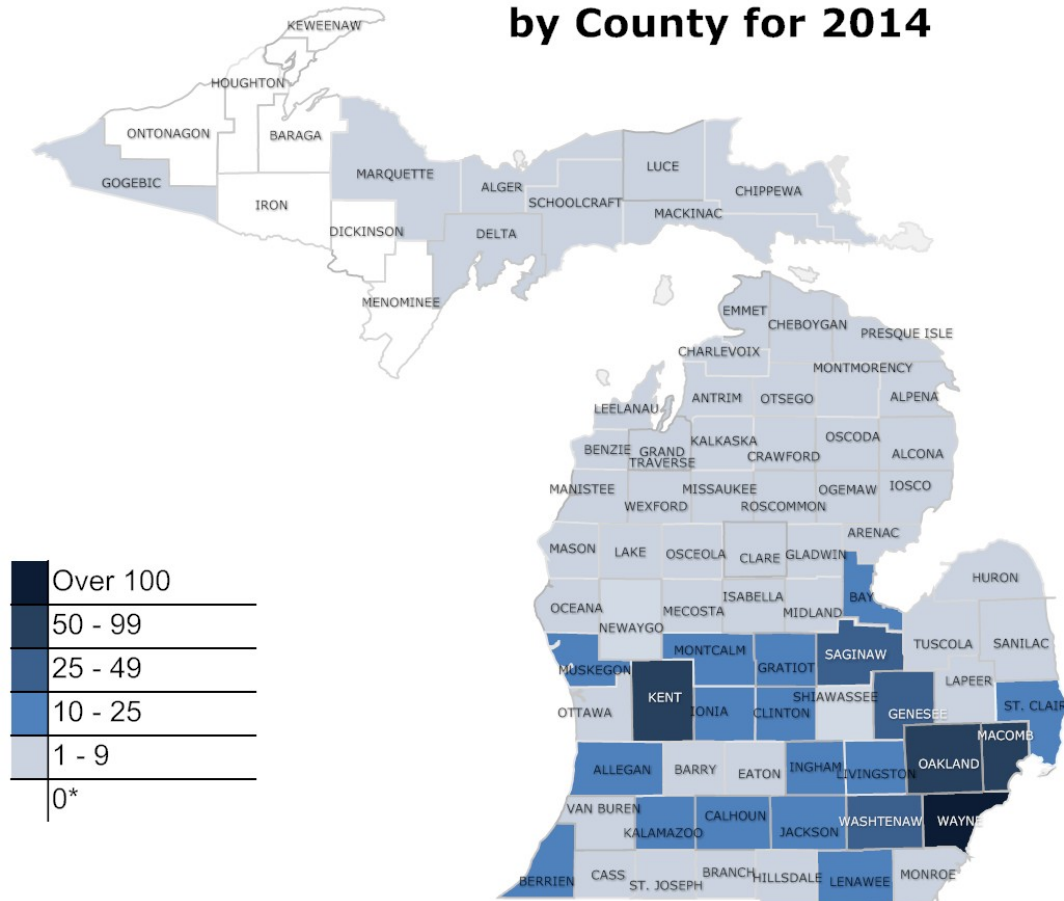
**Level 1 and 2 trials: appeals from bench-tried convictions, and from jury trial-based convictions with maximum sentences up to 15 years.

Complex and Special Appointments to SADO

Year	Cases With 2,000 or More Transcript Pages	Substitution Appointments	Prosecutor Parole Appeals	Interlocutory Appeals	Michigan Supreme Court Appointments*
2014	6	96	1	1	0
2013	6	79	0	1	2
2012	9	82	2	3	0
2011	5	60	1	2	2
2010	9	85	5	5	6
2009	5	66	1	3	7
2008	12	77	1	2	4
2007	3	72	0	7	4
2006	5	108	0	3	0
2005	2	56	0	4	1
2004	4	70	0	2	1
2003	2	77	0	4	2
2002	5	97	0	10	3

* Only includes cases where SADO was not originally appointed to represent the client in the trial court or Court of Appeals.

Appointments to SADO by County for 2014



* In counties where SADO received zero appointments there were no criminal appellate appointments for that county or the county is part of a multi-county circuit where there were zero or a very low number of appointments.

b. Productivity

SADO monitors its intake to match the workload to its capacity, and uses a weighted caseload model to distribute work to its staff attorneys. The use of differential caseload management allows for more efficient use of resources through assignments of work based on the nature of the expected work and the time it is likely to occur. The use of weighted assignments to staff attorneys significantly increases the office’s capacity.

The American Bar Association (1989 and 1992), the National Advisory Commission on Criminal Justice Standards and Goals (1973), and the American Council of Chief Defenders (2007) have consistently determined that appellate attorneys should handle no more than 25 non-capital appellate cases per year. Each case unit represents a trial of average complexity: particularly lengthy or challenging cases may receive an upward adjustment in weight. In Michigan, appellate attorneys are assigned to guilty plea appeals as well: due to their relative brevity in underlying record and smaller number of potential claims, plea cases are weighted below one unit. SADO pioneered use of specially trained plea appeal specialists, creating a “Special Unit on Pleas and Sentencing” that is staffed by attorneys handling up to 72 plea appeals per year. Special Unit attorneys focus on sentencing relief and counseling on the risks of challenging plea-based convictions, often initiating an appeal in the trial court within months of the original sentencing, while memories are fresh. Their practice involves much travel to courts and clients located throughout the state.

Productivity measured by case assignments per attorney matched national standards during 2014.

Assignments Per Attorney				
Year	Avg. Attorney Staffing Level	Attorney Assignments	Avg. Assignment Per Attorney Raw	Avg. Assignment Per Attorney Weighted
2014	19	857	45	26
2013	15	558	37	26
2012	15	550	37	25
2011	15	651	43	30
2010	18	628	35	24
2009	18	493	27	20
2008	17	575	34	26
2007	17	609	36	24
2006	17	680	40	27
2005	17	612	36	23
2004	18	618	34	26
2003	17	732	43	31
2002	20	809	41	29

Filings Per Attorney				
Year	Total Filings	Total Major* Filings	Avg. Filings Per Attorney	Avg. Major* Filings Per Attorney
2014	1858	1130	98	59
2013	1444	838	96	56

2012	1605	952	107	63
2011	1569	922	105	61
2010	1447	860	80	48
2009	1419	852	79	47
2008	1767	964	104	57
2007	1793	934	105	55
2006	1795	971	106	57
2005	1430	814	84	48
2004	1872	990	104	55
2003	2060	1035	121	61
2002	1980	1000	102	51

* Major filings include opening pleadings and all non-ministerial pleadings, such as motions to remand, motions to correct sentence or presentence report, motions for credit, and motions for rehearing or consideration.

c. Dismissal and withdrawal rates

Of the cases assigned to staff attorneys, full review of the file and consultation with the client sometimes end in withdrawal from the case or dismissal of the appeal. Withdrawals are usually due to substitution of another attorney, often retained, a breakdown in the attorney-client relationship, or a conflict of interest. Dismissals usually occur in appeals from guilty pleas, where success on appeal through plea withdrawal would expose a client to original, and often higher charges. Both withdrawals and dismissals generally occur after considerable investment of time and effort on the case, and their rates are fairly consistent over time.

Dismissal & Withdrawal Rates						
Year	Cases with Final Dispositions	Cases Litigated	Dismissals	Withdrawals	Dismissal Rate	Withdrawal Rate
2014	613	452	137	24	22%	4%
2013	444	356	69	19	16%	4%
2012	532	434	84	14	16%	3%
2011	611	478	116	17	19%	3%
2010	541	416	101	24	19%	4%
2009	547	461	67	19	12%	3%
2008	600	496	74	30	12%	5%
2007	601	498	91	12	15%	2%
2006	706	518	161	27	23%	4%
2005	646	504	122	20	19%	3%
2004	686	569	94	23	14%	3%
2003	875	641	196	38	22%	4%
2002	837	561	241	35	29%	4%

Goal 2: Seek the best possible outcomes for clients, providing high-quality, timely and effective assistance of appellate counsel

a. Overall relief rate

SADO's relief rate for 2014 is higher than prior years, reflecting excellent appellate advocacy for clients.

Relief Rates					
Year	Cases with Final Dispositions	Dismissals and Withdrawals	Litigated Cases	Cases with Relief Granted*	Relief Rate
2014	613	161	452	161	36%
2013	444	88	356	97	27%
2012	532	98	434	111	26%
2011	595	133	462	109	24%
2010	540	125	415	110	27%

*Relief granted includes new trials and resentencings.

New Trials & Dismissed Convictions	
Year	New Trials & Dismissed Convictions
2014	10
2013	12
2012	13
2011	10
2010	8

Prison Sentence Reductions			
Year	Total Years Reduced from Minimum Prison Sentence Terms	Annual Cost* of Incarceration	Estimated Savings** to State of Michigan
2014	225	\$35,150	\$7,368,914
2013	184	\$34,299	\$6,311,025
2012	247	\$34,423	\$8,502,518
2011	182	\$34,547	\$6,287,600
2010	151	\$34,328	\$5,183,566
2009	165	\$33,544	\$5,534,678
2008	189	\$33,295	\$6,292,812
Total	1343		\$46,010,290

* The cost of prisoner incarceration is supplied by the Michigan Department of Corrections.

** SADO attorneys raise sentencing issues in nearly one-third of filings, on appeals from their clients' trial and guilty plea convictions. Many sentencing claims allege mistakes in scoring of sentencing guidelines, or overly high sentences based on inaccurate information about the defendant or the crime. Often, mistakes are corrected by returning immediately to the trial court to provide another opportunity to impose an accurate and just sentence. Some of the reported reductions are due to dismissal of all convictions in a case. Some savings are attributable to money already spent on needless incarceration, such as where an individual was exonerated. When a sentence is corrected downward, to produce a lower minimum term, the defendant becomes eligible for parole sooner. Each individual defendant will consume fewer state resources, the cost of prison confinement, through such a reduction in the minimum sentence. SADO conservatively computes such reductions: if a defendant is serving multiple sentences in a SADO case and receives correction of just one, the impact is not computed.

b. Noteworthy cases

During 2014, SADO attorneys represented clients in a wide variety of significant and noteworthy cases. Highlights of these cases include:

US Supreme Court

Hofner v Walker, United States Supreme Court #13-603

In 2011, the Sixth Circuit first granted habeas relief due to trial counsel's ineffectiveness in a first degree murder conviction for not raising an insanity defense. In 2012, the United States Supreme Court granted the state's petition for certiorari and vacated and remanded to the Sixth Circuit. In 2013, the Sixth Circuit again granted habeas, and in 2014, the state again petitioned for certiorari in the United States Supreme Court. In January, over a dissent from Justices Scalia and Alito, the Supreme Court denied certiorari. Mr. Walker, who had been serving life without parole, has since pled guilty but mentally ill to second-degree murder with a sentencing agreement of 17-32 years, with credit for fourteen years time served.

Michigan Supreme Court

People v Frederick Cunningham, MSC#147437

The Court found no statutory authority for court costs; instead, a trial court may only impose costs permitted by statute. This was a significant SADO win impacting every criminal case in Michigan, stopping unwarranted costs.

People v Jeffery Douglas, MSC#145646

In a criminal sexual conduct conviction, the Court ordered a new trial for hearsay violations, other evidentiary issues, and ineffective assistance of counsel.

People v Matthew McKinley, MSC#147391

The Court held that the restitution statute does not permit orders of restitution for conduct where there is no conviction.

People v Dwayne Wilson, MSC#146480

The defendant's felony murder conviction was dismissed on double jeopardy grounds due to collateral estoppel, where a jury already acquitted him of the underlying offense.

People v Deandre Woolfolk, MSC#149127

The Court issued a memorandum opinion finding that the client, who was 17 years, 364 days old at the time of offense, was a juvenile based on the anniversary of his birth. The client was therefore entitled to resentencing under *Miller v Alabama*.

Michigan Court of Appeals

People v Michael Garrison, COA#310260

A new trial was ordered in an unarmed robbery conviction for the improper admission of preliminary examination testimony where a witness was not unavailable at trial. The court found hearsay and Confrontation Clause violations. Mr. Garrison has since pled guilty to a lesser offense for time served. Initially serving nine to twenty years, he has now been released from prison.

People v Terrell Thornton, COA#313070

The Court affirmed the trial court's grant of new trial in an arson conviction. Trial counsel ineffective for failure to call alibi witnesses.

People v Jimmy McKaskill, COA#312409

The Court of Appeals ordered a new trial in an armed robbery conviction where police made improper identification of defendant from a still photo made from surveillance video.

People v Jerome Anthony Lewis, COA#312288

The Court of Appeals vacated the defendant's conviction and sentence, finding a due process violation for last minute amendment to the charges of accessory after the fact.

People v Mary Vandenberg, COA#314479, *published*

The Court ordered a new trial because the statute for making or exciting a disturbance is unconstitutionally overbroad; the related resisting and obstructing conviction was improper.

People v Lois Butler-Jackson, COA#315591, *published*

The Court found insufficient evidence for crime of "conspiracy to commit an illegal act in an illegal manner," where the Medical Marijuana Act permitted the activity.

People v David Evans, COA#316859

The Court of Appeals dismissed the prosecution's appeal as moot after the trial court granted plea withdrawal because new charges were already dismissed via stipulation in trial court. The client, serving three to ten years for sexual assault, was released.

People v Derrivis Parker, COA#317737

The Court of Appeals remanded for the client to receive the favorable plea agreement he lost due to ineffective assistance of counsel.

Trial Court

People v Earl Krantz, Allegan County Circuit Court

On remand from Michigan Supreme Court for rulings on potential new evidence, the trial court again ordered a new trial in criminal sexual conduct conviction.

People v Terry Raap, Muskegon County Circuit Court

The trial court vacated defendant's assault with intent to murder conviction involving a corrections officer because the conviction was against the great weight of the evidence.

People v Terry Porter, Wayne County Circuit Court

The client pled to felonious assault, which then unexpectedly subjected him to 25 years sex offender registration for a decades-old offense. An agreement was reached with the prosecution allowing the client to withdraw his plea, plead to a misdemeanor offense for probation, with the judge issuing an order removing him from the sex offender registry.

People v Kosmou Lampros, Genesee County Circuit Court

The client withdrew her plea to assault with intent to commit great bodily harm after a previously undisclosed forensic center report showed her to be insane at the time of offense. The client was released from her 23-month prison sentence to forensic center care.

c. Exonerations

SADO attorneys achieved exonerations for three clients in 2014:

- **Terrence Jose** served four years of his 20 to 40-year sentence after an Oakland County Circuit Court jury convicted him for the sexual assault of his daughter. In July 2013, the trial judge ordered new trial for ineffective assistance of counsel for failure to properly admit evidence of impeachment from cell phone text messages. The Court of Appeals granted SADO's motion to dismiss the appeal and in 2014, the prosecution dismissed all charges.
- **Jimmie Nelson** served four years of his 25 to 50-year sentence in a high-publicity Iosco County cold case murder prosecution that rested on circumstantial evidence. In 2014, the Court of Appeals ordered a new trial based on newly discovered evidence of a different suspect and a stipulation with the prosecution for relief. The prosecution subsequently dismissed all charges.
- **LeAnn Thain** served three years of her sentence to probation on a 2011 conviction for embezzlement and fraudulent use of a financial device. The Court of Appeals ordered a new trial for ineffective assistance of counsel, for failing to offer evidence supporting Ms. Thain's testimony that she had permission to spend her mother's money. The prosecution dismissed all charges in 2014 and Ms. Thain was exonerated.

d. Special and grant-funded projects for clients

A number of special projects operating in 2014 have significantly enhanced SADO's ability to effectively represent indigent criminal appellants and serve the criminal defense bar.

- SADO received renewed Department of Justice funding for a two-year renewal of the Postconviction DNA Testing Project, an intensive review of the backlog of 11,000 untested sexual assault kits from the Detroit Police Department: project staff will review possible cases of wrongful conviction, analyze the evidence in these cases, and advocate for these clients.
- SADO received renewed funding for the Wrongful Conviction Unit, to continue the intensive "First Response" program that identified and responded to legitimate post-conviction claims of innocence at SADO through intensive investigation of client cases on intake.
- The Social Worker Sentencing Project continued a multi-year effort where a team consisting of an attorney and a social worker represented clients who appealed their sentences. This team applied a holistic approach to client service, seeking not only sentencing relief, but also improved life outcomes and lower recidivism rates. The social worker/attorney team focused on sentencing relief for clients scored within "straddle" cells on sentencing guideline grids; these low-level offenders may appropriately receive non-prison placements including community service, probation, mental health treatment, jail, work or school release. As a result of the success of this program, SADO received permanent funding for the social worker.

- SADO's now concluded Crime Lab Unit received the Criminal Defense Attorneys of Michigan "Justice for All" award. In total, since 2008, the Crime Lab Unit reviewed 1,043 cases. Through this review, SADO sent 25 referrals sent to the Wayne County Prosecutor's Office for new testing of Detroit Crime Lab evidence by the Michigan State Police. Five of these referrals have resulted in new trials for SADO clients, including one exoneration:

 - Jerah Arnold:** New trial in murder case where Detroit Crime Lab incorrectly matched shell casings at a murder scene to a weapon in Mr. Arnold's home.
 - Orande Thompson:** New trial in murder case where Detroit Crime Lab wrongly ruled out an accidental shooting.
 - William Lee:** Exoneration in sexual assault case where the Detroit Crime Lab failed to test DNA that exonerated Mr. Lee.
 - Nathan Jacobs:** New trial in a murder case where the Detroit Crime Lab missed evidence of a second murder weapon.
 - Karecio Eatmon:** Withdrawal of no contest plea to assault with intent to murder where the Detroit Crime Lab incorrectly matched the bullet in a shooting to a weapon in Mr. Eatmon's home.
- In *Miller v Alabama*, 567 US __ (2012), the United States Supreme Court found Michigan's mandatory life without parole sentencing scheme for youths convicted of first-degree murder unconstitutional. Immediately upon release of the *Miller* decision, SADO advocated not only for current clients (seven in number) but also former clients (approximately 100 in number): over 370 youths serve sentences of life without parole in Michigan. In 2014, SADO litigated the retroactivity of *Miller* and started the process of resentencing and mitigation hearings for the direct appeal clients. SADO produced a guide for attorneys to properly present mitigation evidence so that these clients would not receive life without parole sentences.

Goal 3: Provide support services and training to assigned criminal defense counsel, in all circuits of Michigan

a. Overview of year

The year 2014¹ marked the thirty-eighth year the Criminal Defense Resource Center (CDRC) has served Michigan's criminal defense community with services essential to the competent practice of criminal law in Michigan. Under the direction of Manager Marla R. McCowan, the CDRC conducted multiple training events in a variety of formats delivered in counties statewide. The CDRC continued in its mission to provide services and support to criminal defense attorneys by blending innovative technology with useful and practical resources developed by highly experienced attorneys and trainers from SADO and the criminal justice community.

CDRC operations were once again funded through a combination of SADO budgetary support, user fees, and grants. The principal grants were from the Michigan Commission on Law Enforcement Standards (MCOLES), designated for training projects, in the amount of \$111,477.42 a decrease of \$26,901.58 (approximately 20%) from 2013. The MCOLES award supported (a) the publication of the Defender Trial, Sentencing, Habeas and Motions Books, and appellate summaries distributed regularly throughout the year that in part form the basis for the updates to the Books, (b) training conferences and seminars including those co-sponsored by our training partners, the Criminal Defense Attorneys of Michigan, and the Wayne County Criminal Advocacy Program, and (c) scholarships for assigned counsel to attend CDAM's Trial College. The CDRC also continued to manage the month-by-month grant for the Attorney-to-Attorney Project in Wayne Circuit Court, awarded by the Wayne Criminal Defense Attorneys Association, along with other support services for customer subscribers and community partners.

User fees support a portion of the costs of books, newsletters, copying, and operation of the SADO web site. By popular demand, the CDRC and SADO's Finance Manager were able to implement the option to pay online with a credit card in October 2013, enabling users to not only pay by their most preferred method but also allowing for virtually instantaneous access to SADO's online resources.

b. Training

The Defender Books

The principal training provided by the CDRC on a statewide basis is SADO's "Defender Series" of books: *The Defender Trial Book*, *The Defender Plea, Sentencing and Post-Conviction Book*, *The Defender Motions Book*, and *The Defender Habeas Book*. These books reside on SADO's website, www.sado.org, and are available at any time to SADO's approximately 600 online subscribers – composed of criminal defense attorneys around the State of Michigan including SADO staff and all full-time public defenders. The electronic version of the books is also available on a flashdrive for a nominal fee for those who prefer to take the books on the go. These four annually-updated books contain well-organized summaries of the law on all aspects of criminal law and procedure, from arrest through appeal. In addition, the Defender Motions and Habeas Books contain model pleadings that

¹ Due to reporting methods based on a subscription year, the time period covered by this report is October 1, 2013 to September 30, 2014.

can be adapted for use in any case, as well as consulted as writing models. Summaries and analysis of case law, statutes, court rules and legal practice are also included. A small companion to the *Defender Plea, Sentencing, and Post-Conviction Book*, the *Defender Sentencing Guidelines Manual Annotated* remained the most requested new print product developed by the CDRC in the last year, with more than 500 units distributed statewide.

Live Defender Book Training Events

Eight live CDRC training events complimented the training book updates during the reporting period. The events were part of the grant funding generously awarded to SADO by MCOLES. Locations and topics were largely driven by request and need from the criminal defense community, and every event was recorded and posted on SADO's website to ensure maximum access to content and updates at the convenience of trainees. The events included:

- October 11, 2013 – “Michigan Legislative and Criminal Law Update” by Michael Mittlestat at Cooley Law School (live in Lansing and simulcast in Grand Rapids, Ann Arbor and Auburn Hills).
- October 18, 2013 – OWI/OUIL Update by Patrick Barone and Michael Nichols in Saginaw.



Valerie Newman in Muskegon

- December 6, 2013 – “Felony Sentencing Update” by Anne Yantus at Cooley Law School (live in Lansing and simulcast in Grand Rapids, Ann Arbor and Auburn Hills).

- May 2, 2014 – “COMPAS at Sentencing” by Jacqueline McCann at Cooley Law School (live in Auburn Hills and simulcast in Lansing, Ann Arbor and Grand Rapids).

- July 31, 2014 – “Master Class: Preserving the Record and Looking Down the Road” by Valerie Newman in Muskegon at the Grand Valley State University Alternative and Renewable Energy Center.
- August 7, 2014 – “Michigan Felony Sentencing Law” by Jacqueline McCann at the Emmet County Courthouse in Petoskey.
- August 8, 2014 – “Smarter Sentencing for Criminal Justice Practitioners” by Jacqueline McCann in the Marquette County Circuit Courthouse.
- August 22, 2014 – “Bindovers, Appeals and Innovative Motion Practice” by Neil Leithauser and Kelly McDoniel in the Frank Murphy Hall of Justice in Detroit.

Beginning with the July 2014 events, the CDRC used Eventbrite to manage registrations, a free online service that enabled trainees to RSVP on their own, reducing significant time spent by the CDRC administrative staff in compiling attendance.

Legal Technology Training

The CDRC continued² to present live demonstrations to defense counsel on the use of a variety of online research tools, including the Defender Books, other web-based legal research, word processing skills, caseload management, electronic filing, and trial presentation skills. These trainings ranged from hour-long brown-bag lunch styled training events to full afternoon sessions for beginners and experienced criminal defense attorneys with varying levels of technological proficiency.

Three shorter sessions took place at public defender offices including Kent, Chippewa and Muskegon Counties during the reporting period. All public defender offices in Michigan were supplied, pursuant to their requests and/or preferences, with paper copies and flash drive versions of the Defender Series of Books. All full time public defenders in Michigan are provided with complimentary access to all SADO resources.

The CDRC team also presented an hour of training to new MAACS lawyers when the roster opened in December 2013, and provided a free year of online access to SADO's resources for the newest attorneys taking appellate assignments in Michigan.

Afternoon sessions took place at the CDAM conferences in November 2013 and March 2014. At each conference, a two-hour hands-on presentation was provided by the CDRC team, largely using live demonstrations of all of the databases on www.sado.org. Separately, at each conference a break out session was offered by the CDRC team to provide a working lunch to learn about the latest technology for practicing lawyers.

Hour long sessions were also offered at three prisons in Michigan, based on request and need. Virtually all prison law libraries are now equipped with online access to SADO's resources, and the CDRC team traveled to Macomb Correctional Facility (New Baltimore), Huron Valley Correctional Facility (Ypsilanti), and Kinross Correctional Facility (Kincheloe) to demonstrate updates in the online version of the *Defender Habeas Book*, as well as how prisoners can stay current with legal developments as most continue to litigate their cases in *pro per* during post-conviction proceedings.

CDAM Conferences, Trial College, and CAP Seminars

Once again, the CDRC included in its MCOLES grant application funding for conferences planned with training partners, the Criminal Defense Attorneys of Michigan (CDAM) and the Criminal Advocacy Programs of Wayne County Circuit Court (CAP). Funding was obtained for twelve trainee scholarships to attend the summer CDAM Trial College, and also for the operational expenses of the ten CAP seminars conducted each fall.

Two CDAM conferences were conducted during the reporting period. The fall conference was held in Traverse City in November 2013 and the spring conference was held in Troy in March 2014. Hundreds of attorneys from all over Michigan attended the trainings.

CDAM's trial college had approximately 35 trainees, with 12 scholarships offered to attendees based on demonstrated need. The trial college was held in Lansing in August of 2014, at the Radisson Hotel and State Bar of Michigan building.

² SADO continued to offer the training despite a reduction that removed it from the customary MCOLES award.

The CAP sessions provide mandatory training for the Wayne County Criminal Defense Bar Association, approximately 500 attorneys taking assignments in criminal cases in Detroit. CDRC maintains a position on the CAP Board to plan the events, all of which receive overwhelmingly positive feedback in evaluations. A list of all prior sessions, with video recordings of the content and handouts provided, are on the CAP's website hosted by SADO, at www.capwayne.org.



The CAP sessions are held in the auditorium of the Coleman A. Young Municipal Center.

During the reporting period, one of the CAP sessions was also re-presented live in Saginaw to the bar association members, with grant funding provided for travel and training time to the presenters.

In-House Training Events

Adjacent to the CDRC central office area is a training room where several events are conducted throughout the year in an effort to encourage continuing education for all staff on a variety of topics. SADO's Internal Operating Procedures require training for staff and training needs are surveyed routinely. For example, CDRC conducted a thorough review of the "New Hire Training" at the conclusion of the 2012 new-hire's first year (October 2013), which provided invaluable feedback used to inform continuing education and mentorship for our newest assistant defenders.

Multiple events took place during the reporting period, including:

- New Hire training, designed specifically for the staff attorneys after a self-assessment of needs;
- Appellate Timeline Training, designed for new attorneys and serving as an update on rule changes for senior staff;
- Training for SADO's summer interns, an orientation event covering everything from ethics to substantive criminal procedure;
- DNA training by our grant-funded attorney participating in our Wrongful Conviction Unit;
- Sexual Harassment in the Workplace training administered by our Human Resources Manager;
- COMPAS training by Anne Yantus, explaining new policies by the MDOC;
- Hot topics in guilty plea appeals by Jacqueline McCann;

- Multiple roundtable discussions on Juvenile Life Without Parole, hosted by SADO's Deputy and featuring speakers knowledgeable about the issue to interact with line attorneys working on such cases;
- Periodic discussions of SADO's plea unit, designed to address trends and developments in that area of law;
- Group viewings of webinars hosted by the National Association for Public Defense on substantive legal issues relevant to our practice and special topics including speaking with the media.

Non-CDRC-Sponsored Training

SADO staff members are routinely called upon to present at training events, serving as experts in all areas of criminal defense and sharing their knowledge with members of the criminal defense community. Some examples include:

- SADO staff attorneys served as four of the six presenters at the annual MAACS Fall Training that occurred in October of 2013;
- Michael Mittlestat trained the Macomb and Genesee County Bar Associations on legislative updates;
- Anne Yantus trained the Genesee County Bar and with the Michigan Judicial Institute on Sentencing Law;
- Jacqueline McCann trained the Macomb County Bar on COMPAS at sentencing;
- Valerie Newman presented in New Orleans at a conference of the National Association of Criminal Defense Lawyers;
- Marla McCowan was part of a panel that trained on criminal law updates with the Institute for Continuing Legal Education;
- Katherine Marcuz trained at the Young Lawyers Summit on sentencing issues;
- Jacqueline Ouvry and Nicole George served as presenters for the SBM Prisons and Corrections Section;
- Marilena David-Martin served as a trainer at a CAPPs session;
- The CDRC also co-sponsored the Criminal Law Section's training on scientific issues in Frankenmuth, Michigan, where our Wrongful Conviction Unit attorney was a presenter.

Attorneys and support staff alike are regularly encouraged to attend non-SADO/CDRC sponsored training events *outside of the office* with the understanding that knowledge gained will be provided to staff, after such training. Staff also participated in events out of state, including but not limited to training for Public Defender Managers in Kentucky, Georgia, Illinois and North Carolina; training

unique to public defenders with *Gideon's Promise* in Atlanta, Georgia; Innocence Network conferences in Oregon and Louisiana.

Additionally, all SADO staff received individual log-in credentials to access the online training resources of the National Association for Public Defense (NAPD). Dozens of web-based training events are archived for access at the convenience of the trainee.

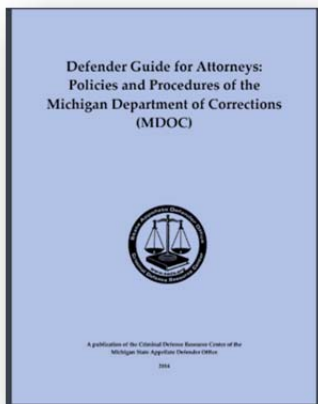
All SADO staff (100%) attended at least one live training event during the reporting year.

c. Support Services

In 2014, the CDRC had 552 online subscribers, not including SADO staff, geographically spread across Michigan. The CDRC staff regularly provides services, support and information to subscribers through a variety of means including distribution of the *Criminal Defense Newsletter*, assistance with database searches and customer accounts, operation of SADO's "FORUM" (an online community of criminal defense attorneys) and oversight of the Attorney-to-Attorney support project in the Wayne County Circuit Court.

NEW! MDOC Guide for Attorneys

In addition to the core support provided every year to the community, SADO offered a new manual, the *2014 Defender Guide for Attorneys: Policies and Procedures of the Michigan Department of Corrections*, intended to aid counsel in navigating the Michigan Department of Corrections (MDOC) on behalf of their clients who are incarcerated. The principal author of this Guide is Jessica Zimelman, an Assistant Defender with SADO since 2012. Prior to joining SADO, Jessica worked for the Legislative Corrections Ombudsman, monitoring the Michigan Department of Corrections on behalf of the State Legislature. With Ms. Zimelman's unique insight, the Guide addresses common issues that arise within the MDOC, with emphasis on the following six areas:



- Part One: Intake and Programming: extensively details how prisoners are placed in facilities, how they are classified for programs, and the current difficulties prisoners have in obtaining MDOC programming;
- Part Two: Life Inside: eight separate sections address the common difficulties prisoners face inside the prison system, including staff harassment, threats to prisoners/safety, misconducts, the grievance procedure, gangs, indigent prisoners, and prisoner funds.
- Part Three: Mental Health and Physical Health: with information about the mental health programs the MDOC has available, as well as policies on specific, common health care concerns.
- Part Four: Visiting and Communication: covers not only how to properly prepare for a visit to a facility, for both family members and attorneys, but also the plethora of ways to communicate with prisoners, including writing, emailing, and sending money and property.
- Part Five: Parole: explains the parole and parole violation processes, and includes tips to help prepare clients for parole board interviews.
- Part Six: Other Topics: includes a variety of information about specific MDOC programs, such as boot camp (SAI) and housing prisoners in county jails.

In nearly every section, there are tips for “Advising your Client” and a tremendous amount of information throughout this manual. The Guide itself is an 8.5 x 11, 104 page, soft-bound volume. More than 100 units were distributed after it was released near the end of the fiscal year.

NEW! Re-Entry Database

Also new to the services offered by SADO is a Re-Entry database located at <http://www.sado.org/locate/reentry>.

Designed for defendants with a real possibility of a community sanction at sentencing or those reentering the community post-sentence, the database will put people in touch with a variety of resources including but not limited to employment, housing, education, drug and alcohol treatment, mental health, and financial planning. Defense attorneys can use the database to identify appropriate resources for a sentencing plan. Within the database, the services can be isolated by county and refined by various criteria including those that provide transportation and accepting people on the Sex Offender Registry. Currently there are over 100 re-entry services identified in the database, which will continue to grow now that it has launched.

SADO Assistant Defender Marilena David-Martin, chair of SADO’s Community Outreach Committee along with SADO Assistant Defender Jacqueline Ouvry and SADO Social Worker Nicole George, both members of the Outreach Committee, coordinated the effort to populate the database.

Criminal Defense Newsletter

This near-monthly newsletter (ten issues published) delivered an average of twenty-eight pages of essential information to subscribers in both electronic and hard copies. Each issue contained a lead article providing in-depth analysis of a legal issue, news, announcements, a training calendar, practice notes, summaries of appellate decisions, news of pending and recently-passed legislation, and much more. The *Criminal Defense Newsletter* continued production in-house, saving money as well as time in finalizing the materials provided to our subscribers while also allowing for printing on demand, in line with our other printed material distribution process.

The summaries of appellate decisions in the newsletter are funded through an MCOLES grant and provide regular, concise updates on the law to criminal defense attorneys in an effort to stay-up-to-date on legal developments. The summaries cover all criminal decisions of the Michigan Court of Appeals and Michigan Supreme Court, significant orders of those courts, selected unpublished Michigan Court of Appeals decisions, and selected decisions of Michigan’s federal district courts, the Sixth Circuit Court of Appeals and the United States Supreme Court. Significant decisions from other states are summarized as well. The summaries also provide, in part, the basis upon which the Defender Books are updated, and serve to bridge the information delivered between the annual updates of the Defender Books themselves. Approximately 500 summaries of appellate orders and decisions were distributed to subscribers through the *Criminal Defense Newsletter* and through electronic communications from CDRC support staff.

Website Contents

The advantages of web-delivered services are many, including access at all times, from any location, for unlimited lengths of time. Many attorneys find that research needs are well-met by their own “browsing” or “searching” of the CDRC’s databases. Such online access is very cost-effective, and serves the CDRC goals of: (1) improving the quality of criminal defense representation, (2) reducing the possibility of errors and need for appeals, and (3) reducing costs for the state and counties by reducing the hours of research for which appointed counsel might otherwise submit a bill.

SADO's website, www.sado.org, is a resource that is designed to evolve daily. Multiple databases are updated on a daily, weekly and monthly basis including those containing model pleadings, substantive sample briefs and searchable content of all forms.

SADO's "Forum"

The Forum, the CDRC's online discussion group of hundreds of criminal defense attorneys, remained very active, averaging hundreds of messages per month. Attorneys post messages 24/7, asking questions about practice and procedure, sharing pleadings and suggestions for strategy. With the launch of the new website, SADO's Forum moved from being a simple e-mail exchange, to being web-based, allowing for two new databases to be searched by criminal defense attorneys: one contains message content and can be searched by key word, poster, or within a specific date range; the other contains a repository of materials collected on the forum, colloquially referred to as u.F.O.R.U.M.³ A unique resource, the forum's "brief bank" allows for quick retrieval of any document exchanged by users on the forum, including briefs, articles, non-standard jury instructions, and more. The efficiency of the web-based forum and related databases has relieved email traffic while allowing for a robust discussion that is never unnecessarily duplicated. Each user can customize his or her account to allow for email messages of posts to be sent to them, a popular demand from subscribers to maximize control of their own subscription needs.

SADO's forum remains the most popular page on our website, followed by the *Defender Books*. The vast majority of our audience is criminal defense attorneys.

CDRC's webmaster created two features to improve support services provided by the team. The first allows for any administrator to be able to assist subscribers with password retrieval and password changing, two actions that previously were only viewable by the subscribers themselves. The second involved a reporting feature, where administrators can spot trends in log-ins for the website and create a detailed list of daily access in a customized analytical tool.

Attorney-to-Attorney Support Project

The CDRC continued its partnership with the Wayne County Criminal Defense Attorneys Association to provide the Attorney-to-Attorney support in Michigan's busiest criminal venue, Wayne Circuit Court. CDRC research attorneys provided approximately 20 hours of service weekly, directly consulting with other criminal defense attorneys who needed urgent answers to their legal questions. CDRC attorneys provided pleadings, citations, and a sounding board on matters of criminal law and procedure.

The research attorneys continue to input their daily contacts and requests for research assistance into an online database monitored by the CDRC Manager. Approximately 1,500 sessions were entered by the research attorneys during the year and information was collected about the nature of the research performed. The attorneys captured the type of charge(s) involved, the stage of the proceeding where the question arose, and the general area of research involved (use of character evidence, defenses, instructions, sentencing). The data serves to identify trends and training needs in a representative courthouse, which in turn informs the CAP board about areas of programming for the fall sessions and translates to needs in other counties as well.

³ An abbreviation for "uploaded from our repositied user materials."

d. Sharing/partnering with the community

In January 2014, SADO began its partnership with Michigan's Attorney Discipline Board and Attorney Grievance Commission, to provide support for criminal defense attorneys who face discipline proceedings for conduct arising from a criminal case. Many attorneys handling these challenging cases are in solo practices, receiving modest pay as assigned counsel and lacking access to experienced colleagues. To address the need for resources and a support community, SADO will provide both training and access to online resources for criminal defense attorneys who are referred by either the AGC or ADB panels.

SADO's CDRC also continued working with *Gideon's Promise*, an Atlanta, Georgia-based non-profit organization exclusively dedicated to the training and support of public defenders in the south and around the Country. In August of 2014, the CDRC Manager became certified as faculty with Gideon's Promise, and will implement the training model at SADO and statewide in the next reporting year.

CDRC also assumed hosting responsibilities on its own servers for the "Campaign For Justice" website material, in an effort to maintain the historic collection developed prior to the legislation enacted pursuant to the Michigan Indigent Defense Commission Act.

Goal 4: Provide cost-effective services that represent a good return on investment to Michigan taxpayers

a. Economics of sentencing relief

SADO’s role in the appellate system is to correct errors that occurred at the trial level, obtaining just results for clients whether they pled guilty or were convicted at trial. Staff attorneys are well-trained and well-supervised professionals who practice criminal defense on a full-time basis. They are extremely capable of evaluating how best to proceed with an appeal, opting in many cases for correction in the trial court shortly after conviction, and in a significant number of cases for dismissal of the appeal entirely (in plea appeals presenting risk). Appellate and trial courts agree with claims raised in a large number of cases resulting in sentence correction. Correcting sentencing error in a case produces the sentence that should have been applied in the first place, one that is both accurate and appropriate in light of sentencing guidelines. These sentencing error corrections produce not only just results, but considerable savings to the state in prison costs. Minimum sentences also are reduced when convictions are dismissed outright, as when evidence at trial was legally insufficient. These cases, while small in number, contribute to the substantial savings in the cost of incarceration. The annual savings regularly amount to more than SADO’s general fund budget.

Prison Sentence Reductions			
Year	Total Years Reduced from Minimum Prison Sentence Terms	Annual Cost* of Incarceration	Estimated Savings** to State of Michigan
2014	225	\$35,150	\$7,898,093
2013	184	\$34,299	\$6,311,025
2012	247	\$34,423	\$8,502,518
2011	182	\$34,547	\$6,287,600
2010	151	\$34,328	\$5,183,566
2009	165	\$33,544	\$5,534,678
2008	189	\$33,295	\$6,292,812
Total	1343		\$46,010,290

*The cost of prisoner incarceration is supplied by the Michigan Department of Corrections.
 ** SADO attorneys raise sentencing issues in nearly one-third of filings, on appeals from their clients’ trial and guilty plea convictions. Many sentencing claims allege mistakes in scoring of sentencing guidelines, or overly high sentences based on inaccurate information about the defendant or the crime. Often, mistakes are corrected by returning immediately to the trial court to provide another opportunity to impose an accurate and just sentence. Some of the reported reductions are due to dismissal of all convictions in a case. Some savings are attributable to money already spent on needless incarceration, such as where an individual was exonerated. When a sentence is corrected downward, to produce a lower minimum term, the defendant becomes eligible for parole sooner. Each individual defendant will consume fewer state resources, the cost of prison confinement, through such a reduction in the minimum sentence. SADO conservatively computes such reductions: if a defendant is serving multiple sentences in a SADO case and receives correction of just one, the impact is not computed.

b. Video visits with clients

Video-conferences with clients occur routinely, 510 times by SADO staff during 2014, saving considerable travel expenses and improving client communication. SADO established the first project connecting staff attorneys with incarcerated clients at nearly every Michigan correctional facility, a successful collaboration by every measure. The project was extended to MAACS attorneys in 2011, and was used by them for 764 virtual visits in 2014.

Goal 5: Advocate for improvements in the administration of justice

As Michigan's only state-funded public defender office, with a statewide appellate practice, SADO is uniquely situated to interact with policy stakeholders in the criminal justice system and with the public.

a. State Bar service

SADO staff remained engaged in professional activities benefitting the bar and public, including service on a hearing panel of the Attorney Discipline Board (Director Dawn Van Hoek), the governing Council of the State Bar of Michigan's Criminal Law Section (Deputy Director Jonathan Sacks), Appellate Practice Section (Marilena David), and Prisons and Corrections Sections (Chair Jessica Zimbelman, board members Nicole George and Jackie Ouvry), co-chair of Criminal Issues Initiative and State Bar Task Force on Eyewitness Identification (Valerie Newman), and member of the Criminal Jury Instructions Committee (Chris Smith), Libraries and Legal Research Committee (Randy Davidson), District Character and Fitness Committee (Randy Davidson), and Criminal Jurisprudence and Practice Committee (Deputy Director Jonathan Sacks).

b. Systemic reform

Advocacy for systemic reform continued with the participation of the Director in groups planning a statewide trial-level defense system. In July, 2013, Governor Snyder signed into law PA 93 of 2013. The historic and groundbreaking legislation created the Michigan Indigent Defense Commission. The Commission is tasked with creating and implementing standards to ensure that trial-level public defense services throughout the state meet constitutional obligations.

In *Miller v Alabama*, 567 US __ (2012), the United States Supreme Court found Michigan's mandatory life without parole sentencing scheme for youths convicted of first-degree murder unconstitutional. Over 370 youths serve sentences of life without parole in Michigan. SADO has been involved in organizing and educating *pro bono* attorneys to represent these youth at resentencing and SADO's Deputy Director served on a work group that has examined legislative responses to this challenge.

c. Court rule proposals

Through a court rules committee, SADO submitted court rule amendments, and commented on court rule proposals involving appellate procedure, guilty plea procedure, electronic filing of documents, foreign language interpreters, caseflow management in trial court, and video testimony at trial. SADO attorneys testified at Supreme Court administrative hearings on these proposals. In the majority of these proposals, the Michigan Supreme Court ultimately adopted SADO recommendations.

d. Community outreach

SADO's Client and Public Outreach Committee is comprised of 12 members, including attorneys, support staff, and the office investigator and social worker. In August 2012, the Committee launched its first project, "Family Outreach Night." Committee members inform family and friends of incarcerated clients what to expect after a criminal conviction. Topics typically discussed include: the appellate system, how to visit and communicate with a loved one that is incarcerated in the Michigan Department of Corrections, and basic resources for inmates and their families. The outreach night now meets once every two months in both Lansing and Detroit Offices. It is a huge success, advertised and promoted by both the Michigan Department of Corrections and advocacy group publications.

The Committee also created an informational packet covering the topics addressed at the informational sessions and made the informational packet accessible to the public online at SADO's website.

In 2014, the Committee launched a Re-entry Database:

- In concert with the Social Worker sentencing project, SADO attorneys, social workers, and interns have compiled a directory of support and reentry services for clients entering the community after incarceration.
- Clients set to reenter the community will receive counseling for parole and reentry, including a match to the most appropriate support services.

e. Law School Clinics

SADO attorneys teach four highly rated and successful legal clinics at Michigan law schools. The Appellate Practice Clinics at University of Michigan Law School and Wayne State University Law School focus on appeals from trial-based convictions, while the Plea and Sentencing Clinics at Michigan State University College of Law and University of Detroit Mercy School of Law represent clients in guilty plea appeals. The Clinics combine student instruction with client representation in a manner that ensures successful representation of clients and an outstanding training and teaching experience for students. Students tend to be motivated to do as much legal research and factual investigation as possible for our clients' appeals. Subject to the provisions of MCR 8.120, Clinic students routinely represent clients in trial court and at oral argument on appeal.