

**Michigan** Office of  
the Appellate Defender



## 2015 Annual Report

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**Excellence in Assigned Appellate Advocacy since 1969**

The 2015 Annual Report of the State Appellate Defender Office (SADO) and Michigan Appellate Assigned Counsel System (MAACS) 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 and MAACS.

## **2015 Appellate Defender Commission**

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  
Douglas Messing, Court of Appeals Designee  
John Nussbaumer, State Bar Designee

## **2015 Office of the Appellate Defender**

Dawn Van Hoek, Appellate Defender  
Michael L. Mittlestat, SADO Deputy Director  
Bradley Hall, MAACS Administrator  
Marilena David-Martin, CDRC Administrator

### **SADO and CDRC:**

645 Griswold, Suite 3300  
Detroit, MI 48226  
Phone: 313.256.9833  
[www.sado.org](http://www.sado.org)

### **SADO's second office:**

200 N Washington Sq Ste 250  
Lansing, MI 48933-1320  
Phone: 313.256.9833

### **MAACS:**

200 N Washington Sq Ste 250  
Lansing, MI 48933-1320  
Phone: 313.256.9833  
[www.mimaacs.org](http://www.mimaacs.org)

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## *History and Governance*

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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.

## ***Mission Statement***

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SADO and MAACS share the mission of seeking the best possible outcomes for indigent clients who appeal their felony convictions, providing high-quality, holistic, timely, and effective assistance of appellate counsel. As system stakeholders representing criminal defense interests, SADO and MAACS seek improvement in the administration of criminal justice. As agencies possessing legal expertise, SADO and MAACS seek 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.

Managing both SADO and MAACS, the Appellate Defender's mission is to provide equal access to justice, whether a client receives a SADO or MAACS attorney. The Appellate Defender seeks resources for the support of all appellate assigned counsel, to implement state and federal constitutional guarantees of due process, equal protection and effective assistance of counsel.

## ***Goals of SADO and MAACS***

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1. Ensure the prompt assignment of high-quality counsel to all indigent criminal defendants seeking to appeal a felony conviction or sentence, or in authorized post-conviction proceedings, in a manner most efficient to trial courts and protective of appellants' rights, with SADO handling no less than 25% of assignments from all geographic regions.
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.

## *2015 Highlights*

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### **First year of merger advances mission**

SADO and MAACS completed their first full year as merged agencies which deliver appellate assigned counsel services, statewide, in all assigned criminal appeals. Under the management of the Appellate Defender, pursuant to Supreme Court Administrative Order 2014-18, 2015 efforts focused on developing parity between the state-funded public defender cases (SADO) and county-funded private assigned counsel cases (MAACS). For years, under-resourced MAACS attorneys have struggled to deliver high-quality representation to their clients, compared to the services available to SADO clients. A coordinated strategic plan is reducing the uneven access to justice in the appellate system.

While the 2014 merger order asked the Appellate Defender Commission to return to the Court within six months with recommendations flowing from the merger, SADO and MAACS felt that more time was needed to assess and experiment with reform. In Administrative Order 2015-9, the Michigan Supreme Court authorized MAACS to “implement a one-year pilot project to assess the feasibility, costs, and benefits associated with structural reforms currently under consideration for permanent statewide implementation.” The reforms under consideration include regionalized lists of MAACS roster attorneys, more active MAACS involvement in the counsel appointment process, and standardized attorney fees and expenses. The one-year “pilot project” will end on October 1, 2016.

First-year merger efforts also improved the efficiency and cost-effectiveness of both agencies, which now share human resources, IT, and fiscal management resources. Lansing offices were consolidated into one, shared, location close to other government offices.

### **Talented new SADO/MAACS management team**

2015 began with new managers in place for both SADO and MAACS, following the late-2014 departure of all senior managers, save the Appellate Defender (two left SADO to lead the newly-formed Michigan Indigent Defense Commission, two retired from MAACS). From within SADO, senior staff attorney Michael Mittlestat assumed the SADO Deputy Director position, and staff attorney Marilena David-Martin became Administrator of the Criminal Defense Resource Center. Both are experienced appellate attorneys with skills needed to manage the operations of SADO, and provide statewide training and support of assigned counsel. Bradley Hall was selected as MAACS Administrator, coming from years as an attorney at Michigan’s Eastern District Federal Defender Office. His experience within a better-resourced federal system, and passion for change, are driving major improvements for the private assigned counsel side of the appellate system.



Michael Mittlestat



Marilena David-Martin



Bradley Hall

## **SADO caseload capacity maintained above 25% statutory floor**

With the support of four 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. Two new staff attorneys completed their first year of handling their own caseloads by the end of 2015, significantly boosting production. For the year, SADO handled a 26.1% share of the total statewide appellate caseload.

## **More resources for MAACS roster attorneys: Westlaw and Appellate Investigation Project**

Surveys of private assigned appellate counsel in Michigan (the “MAACS roster attorneys”) reveal that most operate in solo law practices, without administrative support, for fees that are largely inadequate. To support attorneys and improve the level of representation they can provide, SADO and MAACS negotiated a group deal for online legal research services, now available to roster attorneys at a considerable discount. A Westlaw research package is offered in conjunction with access to SADO’s online criminal defense resources. Roster attorneys who for years were limited to Westlaw access during public library hours now can use the service 24/7. At year’s end 57 roster attorneys had taken advantage of the deal.

Investigation services were a major focus during 2015, as SADO/MAACS obtained federal Byrne JAG funding for the Appellate Investigation Project. Analysis of SADO’s appellate successes has increasingly revealed the value of fact investigations on appeal, due to staff training and the availability of a staff investigator. Trial court hearings on appeal, often based on claims that certain facts should have been investigated at trial, have routinely led to identification of wrongful convictions. MAACS attorneys have not enjoyed the same access to investigators, or experts to consult or testify, because local courts and counties are cash-strapped and unable to appoint them. With the Appellate Investigation Project poised to deploy two attorney/investigators on MAACS cases in 2016, evaluation will include not only results for individual clients, but savings for the system.

## **Holistic defense of clients a continued priority**

Holistic defense activities during 2015 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 continued to develop 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. Expansion is expected during 2016, as SADO and MAACS support reentry of juveniles previously sentenced to life without parole, who may become eligible for relief.

## **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 2015, reductions in clients’



minimum terms amounted to about 207 years, producing taxpayer savings of approximately \$7,237,198.

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.

Appellate review of sentencing decisions changed dramatically in 2015 as the Michigan Supreme Court ruled the guidelines unconstitutional in part, where judicial fact-finding is done in scoring of offense variables. *People v Lockridge*, 498 Mich 358 (2015). Sentencing guidelines are to be scored and taken into account, but were deemed advisory. By year's end, different interpretations of *Lockridge* flourished, and the impact of the decision on appeals, prison commitments, and overall sentence lengths remained unclear.

### **Social worker sentencing contributed to reduced prison terms**

A major contributor to the good client outcomes from resentencing in 2015 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 38.3 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 \$1,338,968 (a subset of the overall sentencing relief reported above).

### **Client exonerations obtained; wrongful convictions remedied**

SADO obtained relief for clients in a large number of cases casting doubt on the fairness of the proceedings at the trial court level, or guilt of the client. Details appear later in this report, and the following three cases are noteworthy:

#### *People v Dewayne Span*, SADO, Wayne County No. 05-000510

SADO filed a motion for relief from judgment after Detroit Crime Lab errors identified in connection with defendant's trial on second degree murder charge. After egregious errors and possible *Brady* violations were identified through investigation, a settlement was reached in which defendant entered a plea to manslaughter with a combined 12-22½ year sentence. This represents a sentence reduction of nearly 12 years.

#### *People v Kranz*, SADO, Court of Appeals No. 304853

Defendant's convictions for six counts of CSC 1 were reversed and new trial granted based on a finding that trial counsel was ineffective in failing to produce documentary evidence that two other-acts witnesses had lied in prior proceedings about similar instances of sexual abuse.

*People v Jonathan Hewit-El, SADO, Wayne County No. 10-002907.*

The trial court granted relief from judgment and ordered a new trial on armed robbery charges, finding that defense counsel had failed to interview and call two key alibi witnesses discovered through post-conviction investigation, as well as medical evidence showing that the client was physically incapable of committing the robbery as described by witnesses.

*People v Adam Stevens, MAACS, Michigan Supreme Court No. 149380*

Defendant's second-degree murder conviction was reversed and the case was remanded for a new trial before a different judge. The original trial judge pierced the veil of judicial impartiality by interjecting himself into examination of witnesses, invading the prosecutor's role. Judicial bias was displayed to the jury, and curative instructions did not cure the error.

### **Juvenile lifers: retroactivity on hold, results for direct appeal clients**

Approximately 360 Michigan defendants who were sentenced to life without parole for offenses committed while they were juveniles awaited an answer during 2015 on whether the United States Supreme Court would retroactively apply its decision in *Miller v Alabama*, 567 US \_\_\_\_ (2012), which held life without parole constitutionally invalid as cruel and unusual punishment.

Direct appeals for approximately six clients who were juveniles when sentenced to life without parole continued during 2015, with outstanding results in two cases. SADO's social worker and investigator provided significant assistance in these cases:

*People v Dakota Eliason, Berrien County #10-015309*

Applying factors outlined in *Miller v Alabama*, the sentencing court ruled that life in prison without parole was not appropriate for this defendant, who was 14 when he committed murder. A term of 35 to 60 years was imposed, within the statutory parameters of MCL 769.25.

*People v Donte Tillman, Oakland County No. 09-224546*

SADO successfully negotiated a term of years sentence (32½-60 years) for a client facing resentencing and a potential life without parole sentence under *Miller v Alabama*.

## **Federal Byrne grant projects examined rape kits, jump-started appellate investigations at SADO**

SADO competed the first year of a two-year continuation grant of federal funding for its Postconviction DNA Testing Project. Special Assistant Defender Amanda Tringl 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 completed its first year of a federal grant for its Wrongful Conviction Unit, continuing the successful “First Response” project that identified and responded to clients' post-conviction claims of innocence or wrongful conviction. Special Assistant Defender Mike Waldo intensively investigated cases immediately upon assignment to SADO, maximizing opportunities for record development in the trial court.



Amanda Tringl



Mike Waldo

## Systemic reform at trial level begins with first MIDC standards

After a year of staff development, the Michigan Indigent Defense Commission started its real work in 2015 by proposing four minimum standards for the local delivery of indigent criminal defense services. These standards involve education and training, the initial client interview, experts and investigators, and counsel at first appearance in front of a judge or magistrate. Following public comment and adoption by the Michigan Supreme Court, local governments will develop compliance plans and funding requests. Work on standards was accompanied by research, including a statewide survey on current practices in trial-level court systems. See [www.michiganidc.gov](http://www.michiganidc.gov).

## SADO and MAACS attorneys recognized for extraordinary achievement

During 2015, SADO staff members were recognized by others for exceptional work, leadership or accomplishments:



Appellate Defender Dawn Van Hoek was recognized by Michigan Lawyers Weekly as one of thirty “Leaders in the Law” in Michigan for 2015. Leaders are attorneys who are changing the law, expanding access to justice and improving the profession and their communities.

Christopher M. Smith received the 2015 Norris J. Thomas award for outstanding appellate advocacy, given by the Appellate Defender Commission.



Mitchell T. Foster received the 2015 Barbara R. Levine Award for Excellence in Appellate Advocacy, given by the Appellate Defender Commission.



## *2015 Progress Toward Goals*

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**Goal 1:**                **Ensure the prompt assignment of high-quality counsel to all indigent criminal defendants seeking to appeal a felony conviction or sentence, or in authorized post-conviction proceedings, in a manner most efficient to trial courts and protective of appellants' rights, with SADO handling no less than 25% of assignments from all geographic regions.**

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### **The Statutory Framework**

The Appellate Defender Act, signed into law in 1978, created the Appellate Defender Commission to “develop[] a system of indigent appellate defense services which shall include . . . 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,” 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 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.

As to the private counsel component, the Act directs the Commission to “compile and keep current a statewide roster of attorneys eligible for and willing to accept appointment by an appropriate court to serve as criminal appellate defense counsel for indigents.” MCL 780.712(6).

### **The MAACS Role in the Assignment Process**

The Michigan Supreme Court established MAACS in 1981 to “compile and maintain a statewide roster of attorneys eligible and willing to accept criminal appellate defense assignments” from Michigan’s trial courts. AO 1981-7, Section 1(1). The Court left much of the assignment responsibility with the trial courts, including the obligation to “appoint a local designating authority” to “select assigned counsel from the local list” and “perform such other tasks in connection with the operation of the list as may be necessary at the trial court level.” AO 1989-3, Section 3(1).

Under this bifurcated model, the trial courts remain responsible for assigning counsel, while MAACS maintains the statewide roster of private attorneys, manages the assignment process to ensure appropriate distribution to the roster and SADO, engages in roster oversight including retention and complaint evaluations, and works to enhance the roster’s capacity to render effective assistance of appellate counsel.

In 2014, the Supreme Court merged MAACS with SADO and directed the Appellate Defender Commission “to review operations of [] MAACS and submit a proposed administrative order that reflects the consolidation of the two offices and incorporates proposed updates or revisions that the commission recommends.” AO 2014-18.

## MAACS Regional Pilot Project: Reforming the Assignment Process and Standardizing Attorney Fees

“MAACS is authorized to implement a one-year pilot project to assess the feasibility, costs, and benefits associated with structural reforms currently under consideration for permanent statewide implementation. These reforms would consolidate the individual ‘local lists’ of roster attorneys, which currently exist in all 57 circuit courts, into a smaller number of regional lists to be maintained and administered by MAACS.

The pilot will assess the extent to which this consolidation results in greater speed and efficiency in the assignment process, by reducing the number of lists to maintain and allowing MAACS to assume the responsibility of prescreening counsel, preparing appointment orders, and sending notification of appointments to defendants and their attorneys.”

– Michigan Supreme Court Administrative Order 2015-9

MAACS's ongoing review of operations has revealed a number of significant inefficiencies in the existing bifurcated assignment model, which depends on the 57 individual trial courts to manage their own assignment lists, and which fails to incentivize the courts' adoption of uniform policies and practices.

To explore the feasibility and costs of a reform to this model, MAACS has partnered with fourteen circuit courts to conduct an innovative one-year pilot project, which launched on October 1, 2015, with approval from the Supreme Court.

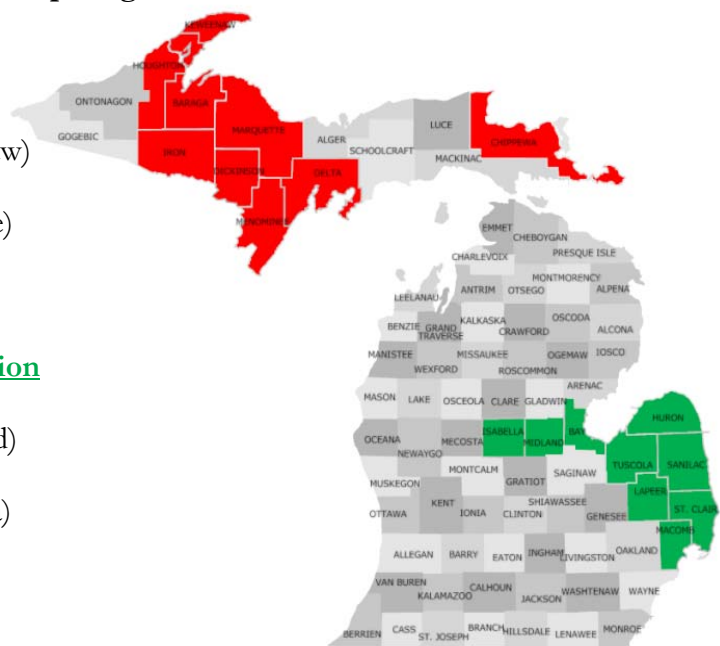
## Participating Circuits

## Upper Peninsula Region

12 (Baraga/Houghton/Keweenaw)  
25 (Marquette)  
41 (Dickinson/Iron/Menominee)  
47 (Delta)  
50 (Chippewa)

## Eastern Lower Peninsula Region

16 (Macomb)	40 (Lapeer)
18 (Bay)	42 (Midland)
21 (Isabella)	52 (Huron)
24 (Sanilac)	54 (Tuscola)
31 (St. Clair)	



## Regional Pilot Project Trial Court Feedback

“The procedure seems to shorten the time period from request of the defendant to getting the paperwork in the mail. It seems more efficient.”

“Some cases [were] sent out to several attorneys before they [were] accepted. Handling the appointments this way is MUCH more efficient and time saving for all parties.”

“I like that MAACS is contacting the attorney before having the order signed. That will cut down on substitution orders.”

“The new program is time saving as far as mailing out copies.”

## Speed and Efficiency in Assignments

MAACS’s management of regional assignment lists has improved the speed and efficiency of the assignment process, reducing the administrative burdens on the trial courts and fostering high-quality representation.

- *Notification of All Requests.* MAACS is notified of all requests for appellate counsel, and can gather data on cases entering the appellate process.

- *Pre-Screening of Counsel.* Immediately after the filing of a request for counsel, MAACS identifies an appropriate attorney, provides case-related documents, and confirms the attorney’s willingness to accept the assignment, avoiding the time and expense of frequent substitution orders and helping ensure that sufficient time is available for investigation and filing of pleadings within applicable deadlines.

- *Preparation of All Transcripts.* MAACS prepares an appointment order including *all* lower court transcripts and provides the order to the trial court judge for a signature, avoiding the time and expense of frequent amended orders for additional transcripts.

- *Assumption of Service Requirements.* Upon entry of the appointment order, MAACS provides copies to the defendant, appointed counsel, and the Court of Appeals, relieving the trial courts of these clerical burdens.

- *Inherent Caseload Control.* The existence of fewer regional lists in the place of abundant local lists will force a normalization of attorney caseloads and greater predictability of frequency of assignments, improving quality and further reducing the frequency of declined assignments.

	Non-pilot Average*	Pilot Project Rate**
Substitutions of Counsel	7.24%	1.44%
Amended Orders (add'l transcripts)	28.43%	10.07%

\* Based on 3081 non-pilot project cases assigned in calendar year 2015

\*\* Based on 139 pilot project cases assigned 10/1/2015 – 12/31/2015



## Fairness and Predictability of Attorney Fees

MAACS assignments are compensated by the trial court funding units under 57 unique and inconsistent attorney fee policies. Some courts pay hourly rates of \$25 per hour, others pay flat fees of \$350 per case, others pay various rates for different “events,” and others employ compensation formulas based on transcript length. Policies differ widely as to payment caps, travel, and expenses, as well.

To facilitate the consolidation of assignment lists and other administrative reforms, the pilot project includes a voluntary uniform attorney fee and expense policy, which was approved by the Appellate Defender Commission after consultation with many courts and roster attorneys. In each court, MAACS provided a detailed cost forecast based on five years of paid voucher data.

In addition to fostering administrative reform, the standardization of attorney fees will carry significant value of its own.

10 <sup>th</sup> Saginaw	Hourly	1985	Judicial discretion – Between \$35 and \$40/hr	Expenses: Additional
11 <sup>th</sup> Alger/Luce Mackinaw Schoolcraft	Hourly	1987	\$40/hr	Expenses: Additional Mileage varies by county
12 <sup>th</sup> Baraga/Houghton Keweenaw	Hourly	2005	\$55/hr	Expenses: Additional
13 <sup>th</sup> Antrim Grand Traverse Leelanau	Schedule	2007	Plea w/o brief: \$750 Plea w/brief: \$1000 Oral Argument if ordered: \$500  Trials: transcript length ÷ 100 x 5 x \$70 with a <b>\$3,500 maximum</b> . Oral Argument, if ordered: \$500	Mileage: \$0.485/mile (roundtrip from office to prison) Copies: \$0.05/page Postage: Actual

*Above:* Select Existing Fee Policies

*Below:* Pilot Project Fee Policy

MAACS Regional Pilot Project Standard Attorney Fee and Expense Policy	
<i>* As Authorized by MSC Admin. Order 2015-9 and approved by Appellate Defender Commission</i>	
Hourly Rate (Legal, Administrative, Investigative)	
Level I cases:	\$50 per hour
Level II and III cases:	\$75 per hour
Presumptive Maximum Fees*	
Plea-based appeals:	15 hours (\$750 Level I; \$1125 Levels II, III)
Trial-based appeals:	45 hours (\$2250 Level I; \$3375 Levels II, III)

- *Quality of Representation.* Reasonable and predictable attorney fee policies will help MAACS attract and retain high-quality lawyers.

- *Fairness to Trial Courts and Counties.* Implementation of a standardized attorney fee policy will eliminate funding disparities between the counties, some of which contribute significantly more than others in attorney fees to fund the private appellate assigned counsel system.

- *Case-Related Data Analysis.* With the adoption of uniform attorney fee and case reporting measures, MAACS will have the ability to conduct an apples-to-apples analysis of thousands of cases per year across circuit court lines, ensuring greater consistency in quality of representation, attorney efficiency, and payment decisions.

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Pre-Screened Plea Appeals Assigned in  
the Pilot Project in 2015

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Pre-Screened Trial Appeals Assigned in  
the Pilot Project in 2015



## Coordinated Case Management from Assignment to Reimbursement: Innovation, Oversight, and Comprehensive Data Analysis

MAACS's case management and data collection system has traditionally relied on two distinct mechanisms. At the front end is a web-based case assignment system, accessible to the staff of each circuit court, which maintains the local lists of roster attorneys (divided by level) and ensures accurate list rotation and assignment, including an appropriate distribution of SADO assignments. At the tail end is a payment voucher for MAACS roster attorneys, designed in 1988, which collects very little case-related data, is frequently incomplete, and is not used in all cases or even all courts.

**II. FEE INFORMATION**  
SERVICES RENDERED (itemize on additional sheet if needed)

	HOURS	21. Client visit	miles x	rate	\$
1. Record review (transcript, court file, PSR/SIR).....	4.25	22. Oral argument	miles x	rate	\$
2. Client visit (including travel).....	2.75	23. Photocopying	pages x	rate	\$
3. Other client contact.....	1.5	24. Postage			\$ 5.00
4. Trial court motions (prepare, appear).....		25. Phone calls			\$
5. New trial.....		26. Other (itemize).....			\$ 2.00
6. Resentencing.....	7.75	27. TOTAL EXPENSES			\$ 2.00
7. Evidentiary hearing (prepare, appear).....		28. Fee requested			\$
8. Resentencing (prepare, appear).....		29. Expenses requested			\$
9. COA leave application.....	6.25	30. TOTAL AMOUNT REQUESTED			\$
10. COA motion to remand.....					
11. COA brief on appeal (research, write).....					
12. COA oral argument (prepare, appear, travel).....					
13. COA motion for rehearing.....					
14. Reply to prosecutor's S Ct appl.....					
15. S Ct leave application.....					
16. S Ct brief on leave granted.....					
17. S Ct oral argument.....					
18. Administrative.....	3.25				
19. Other.....					

**ACTUAL EXPENSES**

21. Client visit \_\_\_\_\_ miles x \_\_\_\_\_ rate \$ \_\_\_\_\_

22. Oral argument \_\_\_\_\_ miles x \_\_\_\_\_ rate \$ \_\_\_\_\_

23. Photocopying \_\_\_\_\_ pages x \_\_\_\_\_ rate \$ \_\_\_\_\_

24. Postage \_\_\_\_\_ \$ \_\_\_\_\_

25. Phone calls \_\_\_\_\_ \$ \_\_\_\_\_

26. Other (itemize) \_\_\_\_\_ \$ \_\_\_\_\_

27. TOTAL EXPENSES \$ \_\_\_\_\_

**REQUEST FOR PAYMENT**

28. Fee requested \$ \_\_\_\_\_

29. Expenses requested \$ \_\_\_\_\_

30. TOTAL AMOUNT REQUESTED \$ \_\_\_\_\_

**BASIS OF REQUEST**

31. ☐ Fee schedule

32. ☐ Hourly

33. Rate/hour \$ \_\_\_\_\_

34. Maximum allowed (if applicable) \$ \_\_\_\_\_

35. ☐ Motion for extraordinary fees (attach copy)

I declare that I was appointed by the court to serve as appellate counsel for the named defendant, and that above is a true statement of uncompensated services rendered and expenses incurred by me in the conduct of that appeal.

**II. FEE INFORMATION**  
SERVICES RENDERED (itemize on additional sheet if needed)

	HOURS	21. Client visit	miles x	rate	\$
1. Record review (transcript, court file, PSR/SIR).....	15.0	22. Oral argument	miles x	rate	\$
2. Client visit (including travel).....	9.5	23. Photocopying	pages x	rate	\$
3. Other client contact.....	7.2	24. Postage			\$
4. Trial court motions (prepare, appear).....		25. Phone calls			\$
5. New trial.....		26. Other (itemize).....			\$
6. Resentencing.....	14.0	27. TOTAL EXPENSES			\$ 975.00
7. Evidentiary hearing (prepare, appear).....		28. Fee requested			\$ 350.00
8. Resentencing (prepare, appear).....		29. Expenses requested			\$
9. COA leave application.....		30. TOTAL AMOUNT REQUESTED			\$ 975.00
10. COA motion to remand.....					
11. COA brief on appeal (research, write).....					
12. COA oral argument (prepare, appear, travel).....					

**ACTUAL EXPENSES**

21. Client visit \_\_\_\_\_ miles x \_\_\_\_\_ rate \$ \_\_\_\_\_

22. Oral argument \_\_\_\_\_ miles x \_\_\_\_\_ rate \$ \_\_\_\_\_

23. Photocopying \_\_\_\_\_ pages x \_\_\_\_\_ rate \$ \_\_\_\_\_

24. Postage \_\_\_\_\_ \$ \_\_\_\_\_

25. Phone calls \_\_\_\_\_ \$ \_\_\_\_\_

26. Other (itemize) \_\_\_\_\_ \$ \_\_\_\_\_

27. TOTAL EXPENSES \$ \_\_\_\_\_

**REQUEST FOR PAYMENT**

28. Fee requested \$ \_\_\_\_\_

29. Expenses requested \$ \_\_\_\_\_

30. TOTAL AMOUNT REQUESTED \$ \_\_\_\_\_

**BASIS OF REQUEST**

31. ☐ Fee schedule

32. ☒ Hourly

**Voucher No. 7892**

Order **12345** Level 3 Jury Trial

Assigned Attorney **Eric Buchanan**

Defendant **John Adams**

Circuit **3rd Circuit Court**

Case(s) **14-987651-FH  
14-987652-FH**

Comments **(no comments)**

**Fees**

Description	Date	Hours	Rate	Amount
Transcripts (350 pages)		4	\$50.00	\$200.00
COA Brief on Appeal	02.12.2015	14	\$50.00	\$700.00
COA Oral Arguments	3.28.2015	1	\$50.00	\$50.00
<b>Total:</b>				\$950.00

**Client Visits**

Location	Date	Hours	Rate	Amount
Alger Correctional Facility	2.12.2015	2	\$50.00	\$100.00
<b>Total:</b>				\$100.00

**Travel**

Description	Date	Miles	Rate	Amount
Client Visit	2.12.2015	170	\$0.35	\$59.50
COA Oral Arguments	3.28.2015	80	\$0.35	\$28.00
<b>Total:</b>				\$87.50

**Other Expenses**

Description	Amount
Photocopying	\$12.00
Parking	\$10.00
Postage	\$11.50
<b>Total:</b>	\$23.50

**Request For Payment**

<b>Total Hours:</b>	<b>21</b>	<b>\$50.00</b>	<b>\$1,050.00</b>
<b>Total Miles:</b>	<b>250</b>	<b>\$0.35</b>	<b>\$87.50</b>
<b>Total Expenses:</b>			<b>\$23.50</b>
<b>Total Requested Amount:</b>			<b>\$1,161.00</b>

In 2015, MAACS began work on a comprehensive new case management system that will track every assigned appeal from the order of appointment through the order of payment, including:

- Selection and pre-screening of counsel based on experience and qualifications
- Depository for electronic copies of all pleadings filed in trial or appellate courts
- Depository for electronic transcripts and lower court records, providing immediate access to counsel and saving the courts time and money
- Real-time entry and comprehensive analysis of case-related data about time, expenses, case-outcomes, complaints, steps taken in the representation, etc.
- Integrated filing deadline calculator
- Integrated payment voucher

The case management system is being designed to produce a dashboard of roster attorney performance metrics and benchmarks. This data will aid MAACS in making retention and classification decisions, as well as the trial courts in their consideration of payment vouchers.

## Performance Metric Concept



## SADO Workload: Intake, Type of Assignments, and Geographic Spread

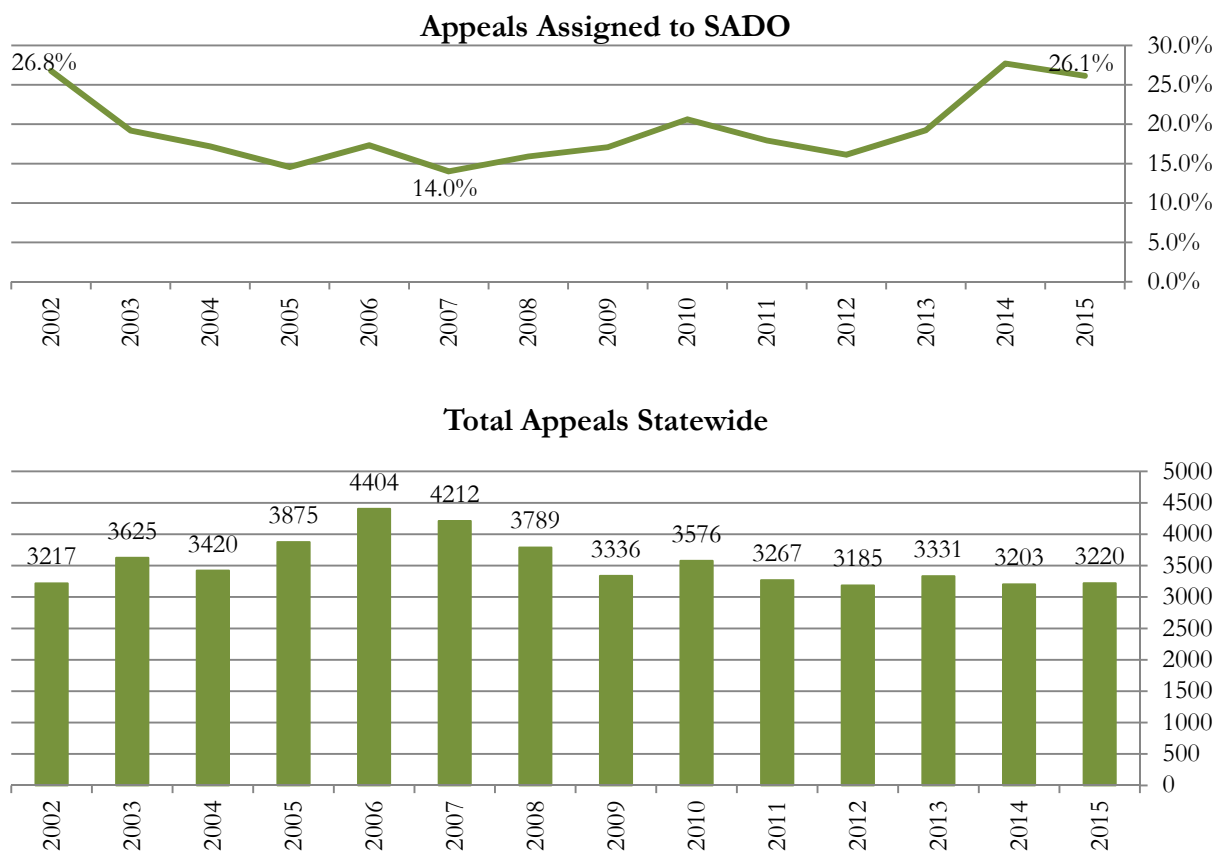
### a. Intake, type of assignments, geographic spread of assignments

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.

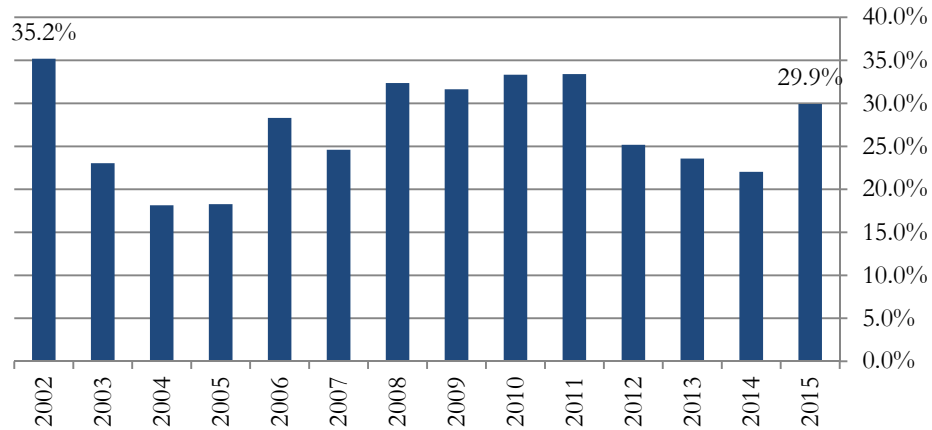
SADO's intake in 2015 was 26.1% of the total appellate assignments statewide. Prior to 2014, SADO's percentage of the statewide caseload had not exceeded 25% for about twelve years, reaching 26.8% in 2002. By 2013 though, funding had been restored for new attorney hiring and an increased caseload. At the conclusion of 2013, new attorneys were promoted to independent caseloads, and as a result, in 2014 and 2015, SADO was able to handle over 25% of the appeals.

As in previous years, SADO's 2015 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.



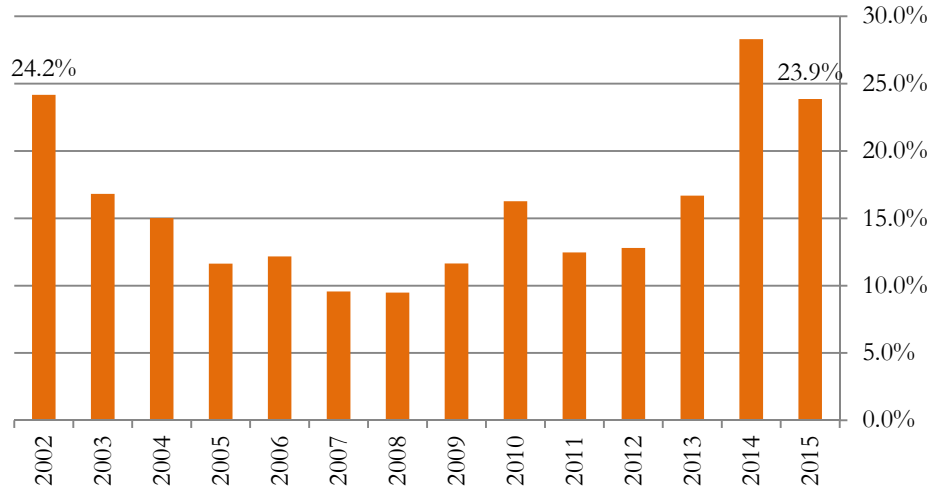
**SADO's % of Level 3 Trials**  
 (appeals from jury-trial-based convictions with statutory  
 maximums over 15 years)



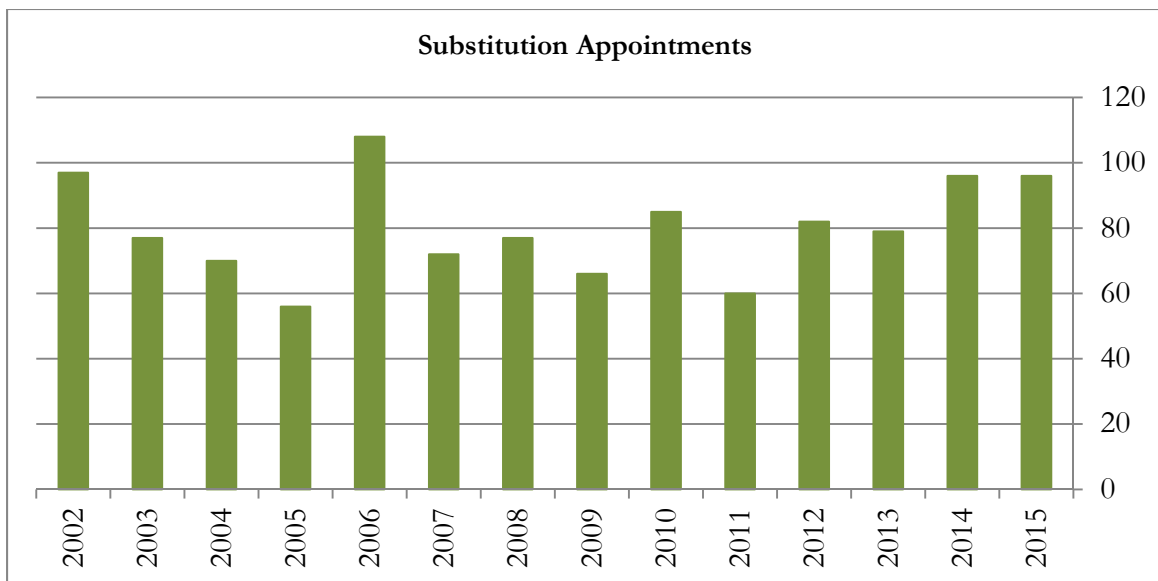
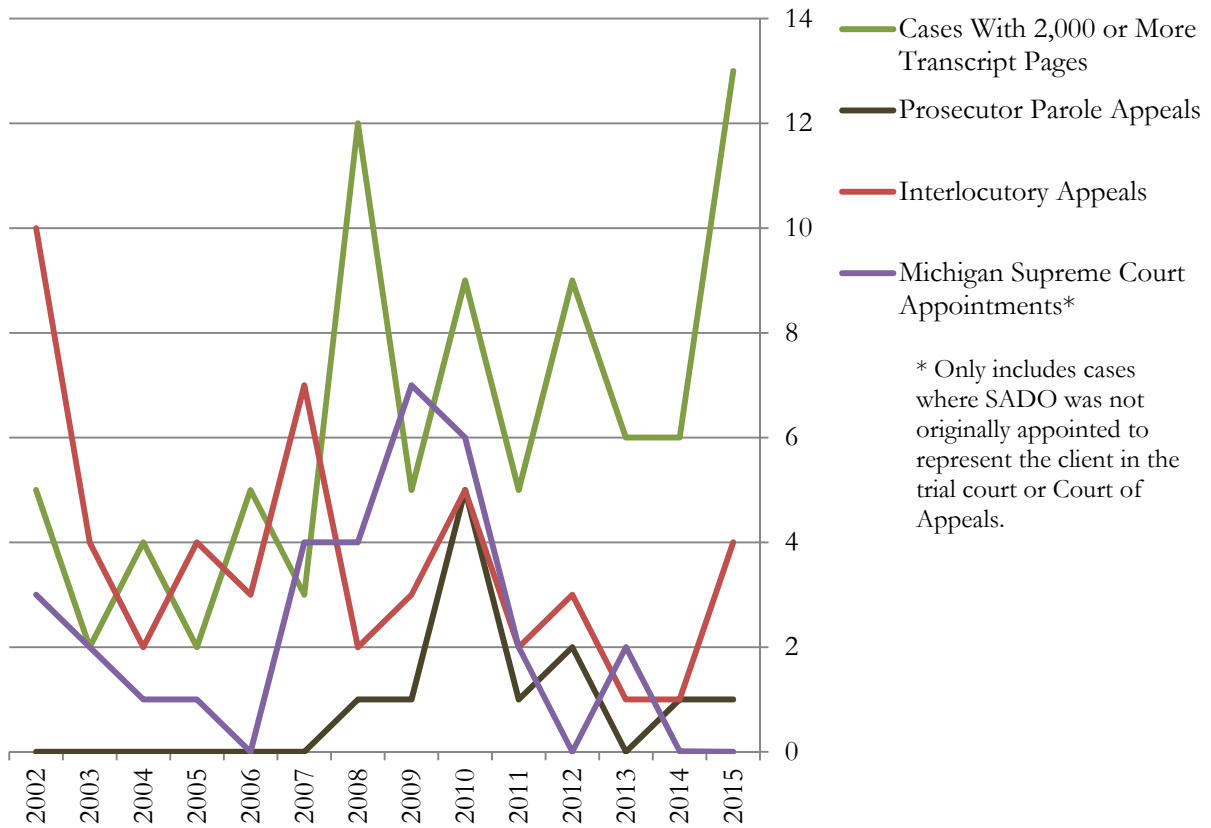
**SADO's % of Level 1 & 2 Trials**  
 (appeals from bench-trying convictions, and from jury trial-based  
 convictions with maximum sentences up to 15 years)



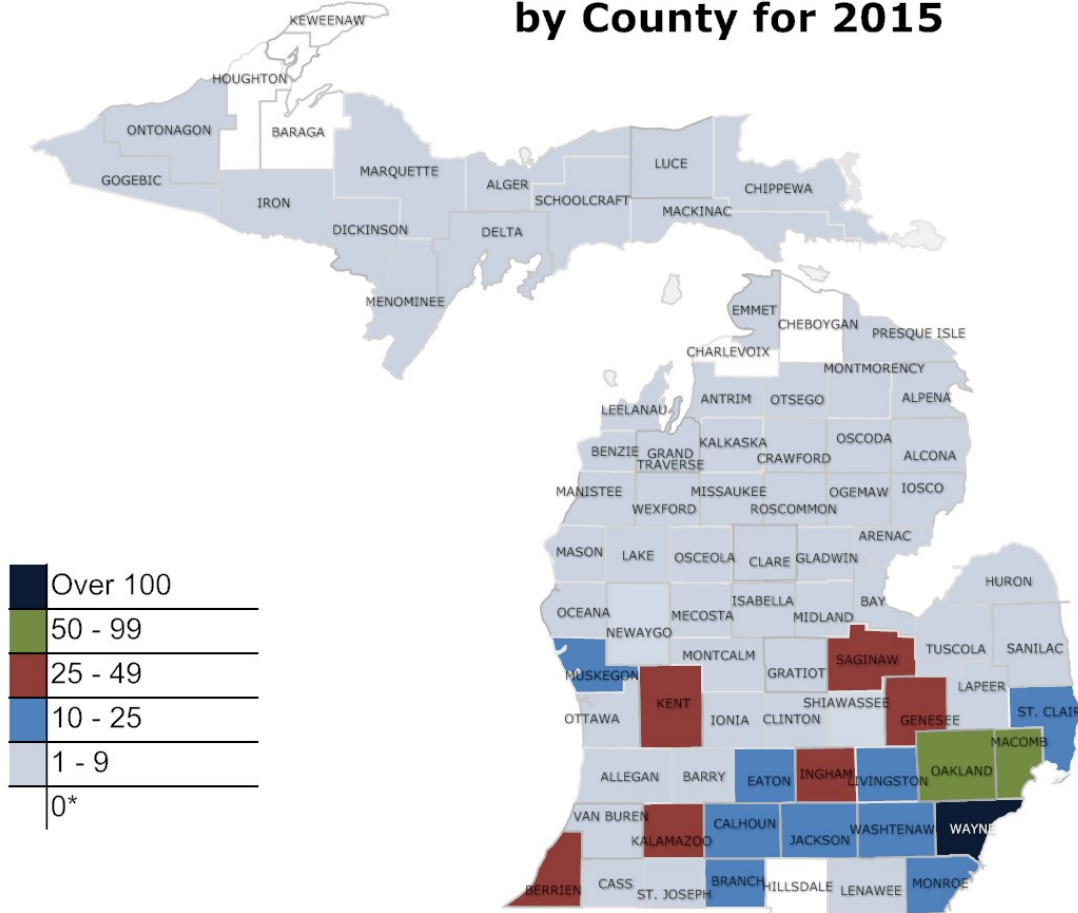
**SADO's % of Pleas, PVs, & Resentencings**



## Complex and Special Appointments to SADO



## Appointments to SADO by County for 2015



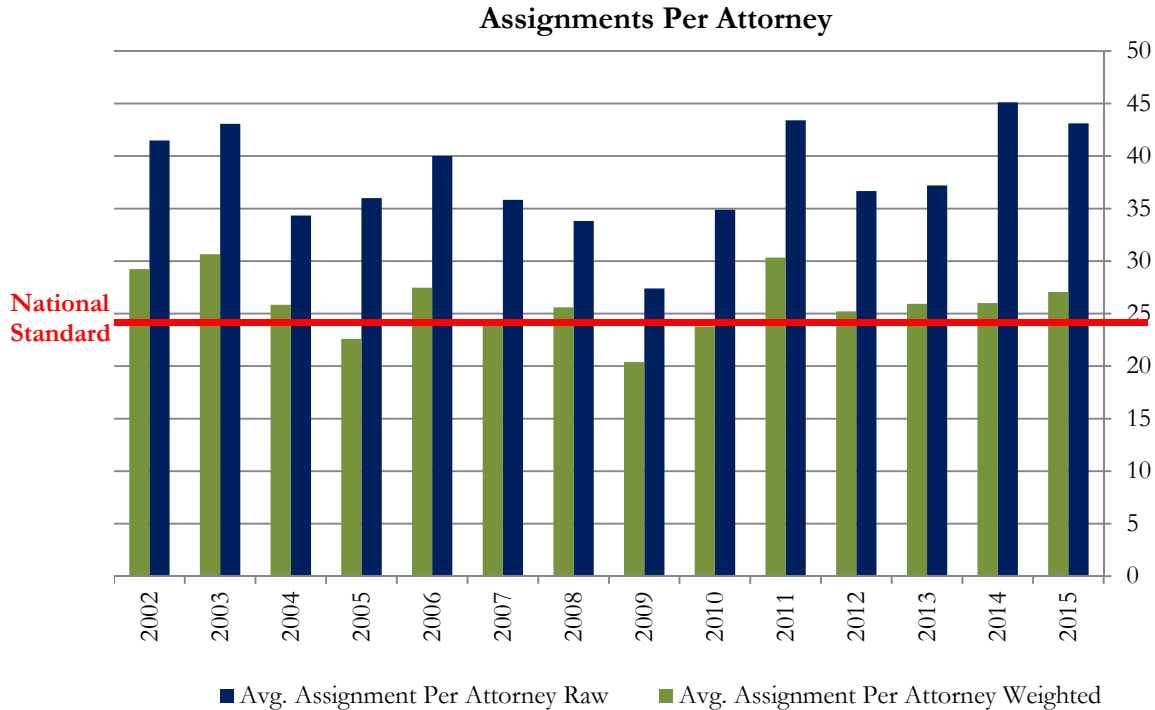
\* In counties where SADO received zero appointments there were no criminal appellate appointments for that county or the county is part of a multi-county circuit where there were zero or a very low number of appointments.

## b. Productivity

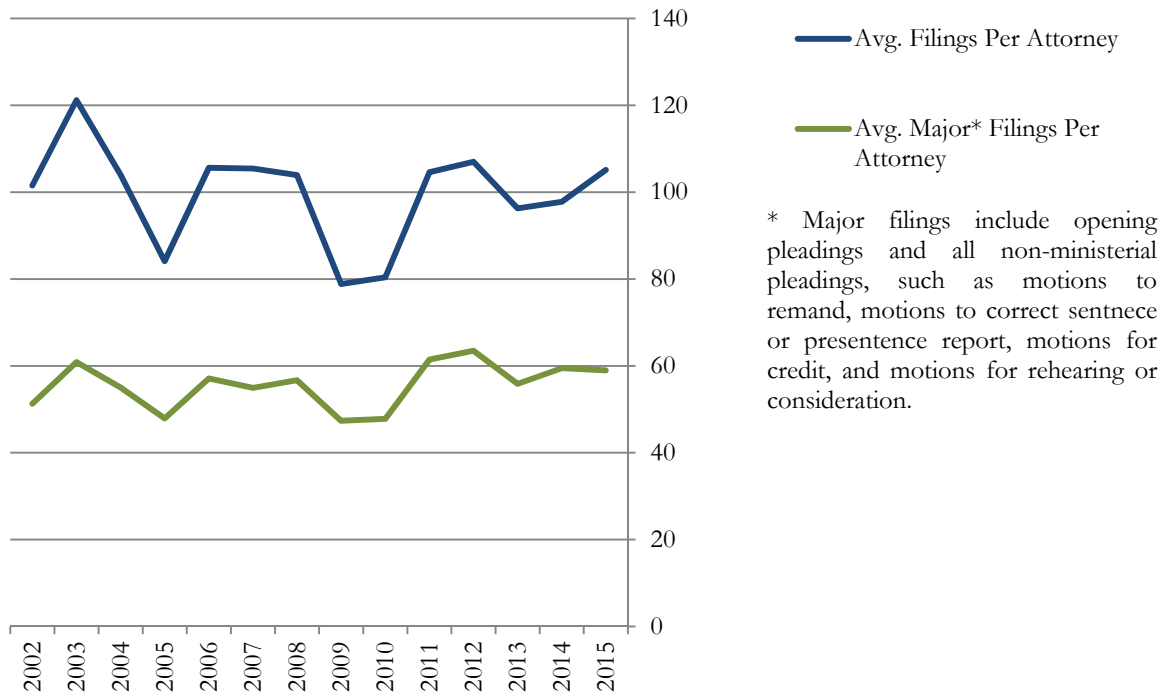
SADO monitors its intake to match the workload to its capacity, and uses a weighted caseload model to distribute work to its staff attorneys. The use of differential caseload management allows for more efficient use of resources through assignments of work based on the nature of the expected work and 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 the raw number of assignments per attorney exceeded national standards in 2015, and weighted case assignments per attorney were in line with national standards.



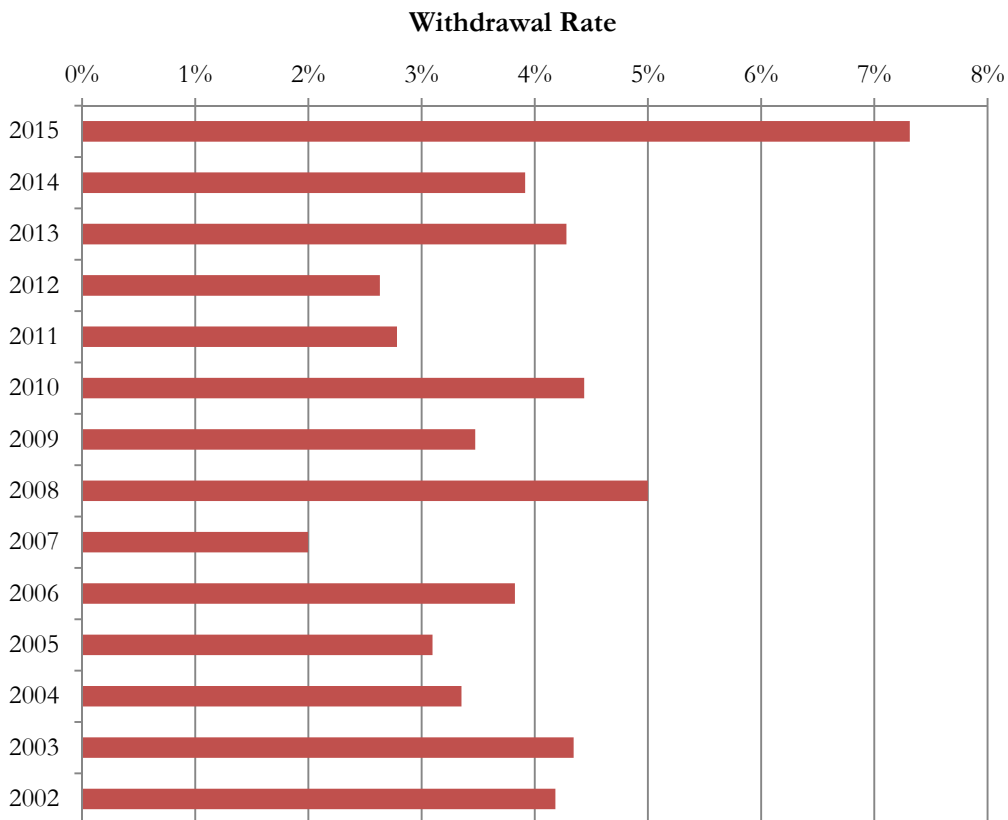
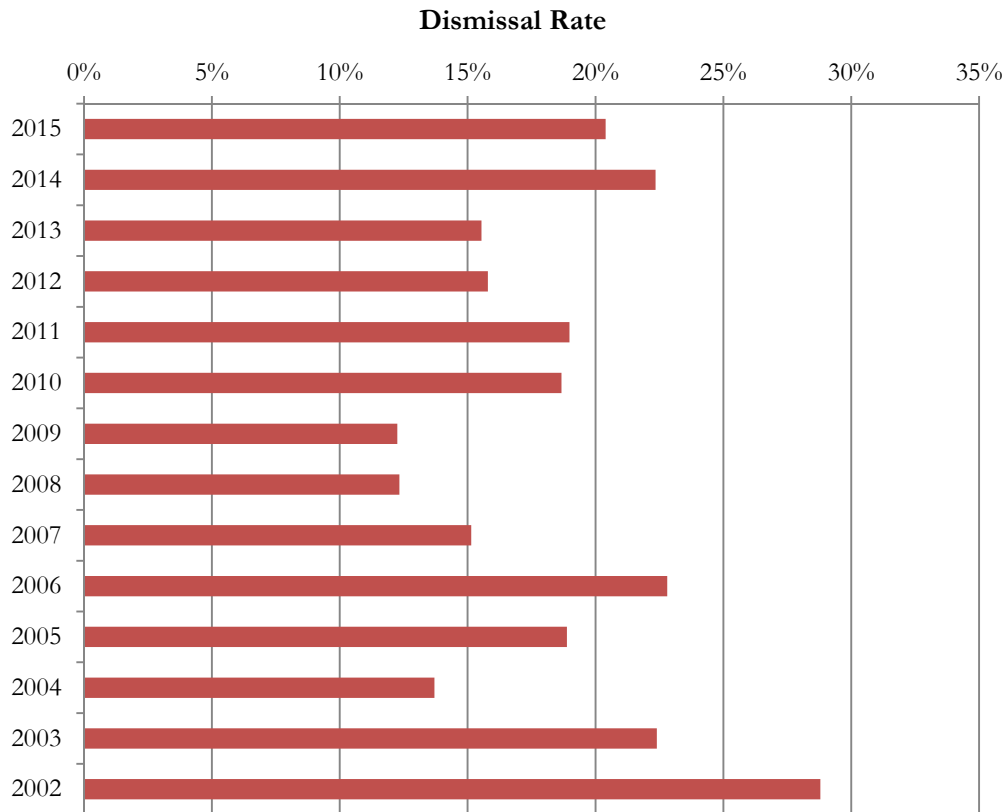
### Filings Per Attorney



#### 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.





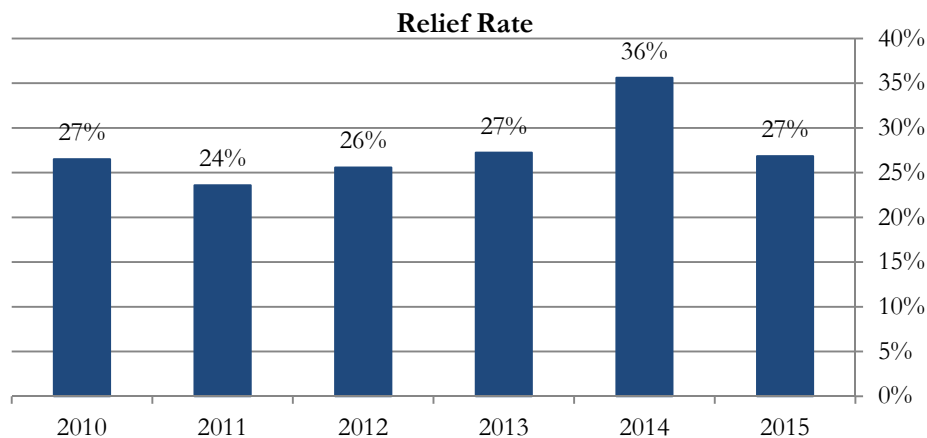
**Goal 2: Seek the best possible outcomes for clients, providing high-quality, timely and effective assistance of appellate counsel**

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**Overall Relief Rate**

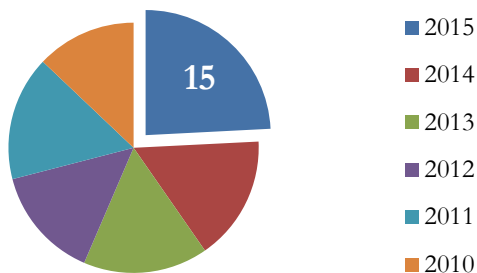
MAACS is developing a case assignment system that will soon allow it to track outcomes that parallel tracking in SADO cases.

SADO's relief rate for 2015 is equivalent to most prior years, reflecting consistent, excellent appellate advocacy for clients.

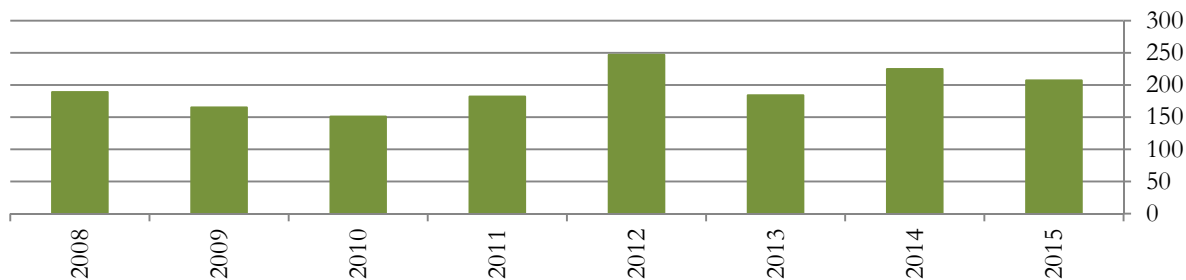


\*Relief granted includes new trials and resentencings.

**New Trials and Dismissed Convictions**



**Total Years Reduced from Minimum Prison Sentence Terms**



## Noteworthy Cases

MAACS is developing a tracking mechanism for noteworthy results obtained by roster attorneys, expected in 2016. One 2015 result obtained by Dan Bremer is worthy of note:

### Michigan Supreme Court

*People v Adam Stevens*, Michigan Supreme Court No. 149380

The Michigan Supreme Court reversed and remanded for a new trial before a new judge where the original trial judge pierced the veil of judicial impartiality, depriving the client of a fair trial. The judge invaded the prosecutor's role by intimidating and argumentative direct and cross-examination of witnesses, and a jury instruction did not cure the error.

During 2015, SADO attorneys represented clients in a wide variety of significant and noteworthy cases. Highlights of these cases include:

### Michigan Supreme Court

*People v Feronda Smith*, Michigan Supreme Court No. 148305

The Michigan Supreme Court reversed a first-degree murder conviction based on evidence presented through appellate investigation that a key prosecution witness had given false testimony, and that the prosecutor had knowingly failed to correct it, in violation due process guarantees.

*People v Joseph Miller*, MSC #149502

Michigan Supreme Court held that convictions for both OWI as a 3rd offender and OWI causing injury for the same conduct violated double jeopardy.

### Michigan Court of Appeals

*People v Derek Henry*, Court of Appeals No. 321031.

SADO successfully defended a trial court's decision to grant a judgment notwithstanding the verdict on first degree child abuse convictions. The Court of Appeals agreed that there was no evidence the client had done anything intentionally that led to his child's death, commenting that "the only evidence adduced at trial was that defendant and his wife were loving and attentive parents to their children." At worst, the client had misjudged the seriousness of the illness that led to the child's death.

*People v Aldaoud*, Court of Appeals No. 318555

The Court of Appeals held that the client, who is mentally ill, was wrongfully forced to represent himself at his trial on 1<sup>st</sup> degree home invasions charges where he did not knowingly and voluntarily waive his right to counsel.

*People v Earl Kranz*, Court of Appeals No. 304853

Defendant's convictions for six counts of CSC 1 were reversed and new trial granted based on a finding that trial counsel was ineffective in failing to produce documentary evidence that two other-acts witnesses had lied in prior proceedings about similar instances of sexual abuse.

*People v Charles Black*, Oakland County No. 14-248989

On appeal, the prosecution agreed to dismiss the client's armed robbery convictions based on newly discovered evidence revealing that someone other than the client had committed the armed robbery.

*People v Anthony Steele*, Court of Appeals No. 318053

The Court of Appeals reversed CSC 1 convictions based on failure to correctly instruct the jury on the essential elements of the offense. Since instructions resulted in an accurate verdict only as to the lesser crimes of CSC 3, the court remanded for entry of convictions and resentencing on those crimes.

*People v McManamy*, Court of Appeals No. 318545

The Court of Appeals held that the trial court abused its discretion in allowing the jury to learn that the client had previously been convicted of first degree CSC at his trial for failing to register his change of address under the Sex Offender Registry Act.

*People v Courtney Halliburton*, Court of Appeals No. 322607.

The Court of Appeals reversed one count of CSC 1, finding insufficient evidence to support that conviction, remanding for resentencing on remaining counts.

*People v Winbush*, Court of Appeals No. 318213

The Court of Appeals reversed armed robbery and felony firearm convictions, holding that the trial court abused its discretion in admitting evidence that a key defense witness had been convicted of second-degree murder.

*People v David Roark*, Court of Appeals No. 316467.

Defendant was granted plea withdrawal under MCR 6.500 based on lack of advice that he would be subject to lifetime electronic monitoring as a consequence of his sentence.

*People v David Wilson*, Court of Appeals No. 319418

The Court of Appeals reversed felonious assault and felony firearm convictions, finding the trial court had improperly required defendant to represent himself at trial without a valid waiver of counsel, in violation of the Sixth Amendment.

*People v Derrivis Parker*, Court of Appeals No. 317737

Court of Appeals found ineffective assistance of counsel in allowing defendant to withdraw his plea based on mistaken belief that his conviction required him to register under SORA. Case remanded to require prosecutor to reoffer the original, rejected plea.

*People v Lionel Wright*, Court of Appeals No. 14-19724

Court of Appeals reversed convictions for felon in possession and felony firearm, finding that evidence should have been suppressed based on an unlawful search and seizure of defendant.

## **Trial Court**

*People v Timothy Crane*, Lenawee County No. 14-6952

The circuit court granted the defendant's request to withdraw his plea to assaulting a prison official, agreeing that the prosecutor had made an illusory promise to induce the client into pleading guilty.

*People v Dewayne Span*, Wayne County No. 05-000510

SADO filed a motion for relief from judgment after Detroit Crime Lab errors were identified in connection with defendant's trial on a second-degree murder charge. A settlement was reached in which defendant entered a plea to manslaughter with a combined 12-22½ year sentence, representing a sentence reduction of nearly 12 years.

*People v Jonathan Hewit-El*, Wayne County No. 10-002907.

The trial court granted relief from judgment and ordered a new trial on armed robbery charges, finding that defense counsel had failed to interview and call two key alibi witnesses discovered through post-conviction investigation, as well as medical evidence showing that the client was physically incapable of committing the robbery as described by witnesses.

*People v Jeffrey Hatcher*, Wayne County No. 13-11596-01

Plea withdrawal granted based on finding that plea lacked sufficient factual basis to support conviction for larceny of over \$1,000.

*People v Welton Pulliam*, Saginaw County No. 14-40106.

Plea withdrawal granted where the judge had failed to advise Defendant that he faced lifetime electronic monitoring as a consequence of his plea to CSC 1.

## **Federal Court**

*James McKinney*, EDM I #2:13-CV-15284

The federal district court granted habeas corpus relief, vacating client's murder conviction and finding that the client's police statement had been taken in violation of his Sixth Amendment right to counsel, and was therefore wrongly admitted at trial.

## **Special and grant-funded projects for clients**

A number of special projects operating in 2015 have significantly enhanced SADO's ability to effectively represent indigent criminal appellants and serve the criminal defense bar.

- SADO entered the second year of renewed Department of Justice funding for 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 reviewed possible cases of wrongful conviction, analyzed the evidence in these cases, and advocated for these clients.
- SADO entered the second year of 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.

- 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 2015, SADO awaited the US Supreme Court's decision on *Miller* retroactivity, and obtained positive results for two juvenile lifers pursuing direct appeals.

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

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#### **SADO's Criminal Defense Resource Center trains trial and appellate assigned counsel**

SADO's Criminal Defense Resource Center (CDRC) provides research services, training, and support to internal staff, MAACS roster attorneys, trial-level criminal defense practitioners, and prisoners. Criminal defense attorneys are served through web and print-based resources, which include a Defender Book Series, Practice Manuals, Brief Bank, Online Forum, Criminal Defense Newsletter, Expert Witness and Misconduct Databases, and much more. Prisoners are provided with many of these resources through their prison libraries.

In early 2015, CDRC gained new leadership under the direction of Marilena David-Martin, former SADO Assistant Defender and the current CDRC Administrator. Marilena is CDRC's third leader in the thirty-nine years CDRC has been serving Michigan's indigent defense community. Essential members of the CDRC team include: Bill Moy, Production Manager, Heather Waara, Administrative Assistant, and in a part-time role, Eric Buchanan, Programmer.

This year, CDRC received \$151,842 in Michigan Commission on Law Enforcement Standards (MCOLES) grant funds and conducted and administered over 100 hours of grant-funded training in eight counties. This marked an increase in \$40,364.58 (approximately 36%) from 2014 funding. The MCOLES award supported: (a) the publication of the Defender Book Series and appellate summaries, (b) training conferences and seminars, (c) scholarships for assigned counsel to attend trial college, and (d) training for MAACS roster attorneys.

CDRC continues to partner with various organizations. This year's training partners included:

- Michigan Appellate Assigned Counsel System (MAACS)
- Criminal Defense Attorneys of Michigan (CDAM)
- Wayne County Criminal Advocacy Program (CAP)
- Wayne County Criminal Defense Bar Association (WCCDBA)
- Genesee County Bar Association (GCBA)
- Saginaw County Bar Association (SCBA)
- Grand Rapids Bar Association (GRBA)
- State Bar of Michigan Young Lawyer's Section (SBM YLS)
- Western Michigan University Cooley Law School (WMU Cooley)
- Third Circuit Court – Juvenile Division
- Muskegon Community College

## CDRC Trainings Offered Throughout the Year

“ In this line of practice, sometimes it can be a lonely process, but coming to SADO CDRC trainings remind me that there are extremely dedicated criminal defense lawyers. Coming together builds our community and reminds us that we have a strong support network to bounce ideas off of and to learn new techniques and bits of information. These trainings facilitate a pleasant and professional community.”

— Michael Dagher-Margosian, Lenawee County Public Defender Office, CDRC Subscriber

CDRC offered the following trainings throughout the state, many of which were MCOLES grant-funded. 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).

1. January 9, 2015 - Internet and Tech Tips for Criminal Defense Attorneys, Marla McCowan, Saginaw; in partnership with the SCBA
2. January 16, 2015 - Appellate Timeline Training, Marla McCowan and Jonathan Sacks, Webinar; in partnership with MAACS
3. April 25, 2015 - Train the Trainer, Marjorie Russell and Jill Price, Grand Rapids; in partnership with CDAM
4. July 17, 2015 - Sentencing Law Update, Jacqueline McCann, live in Auburn Hills, simulcast in Grand Rapids and Lansing; in partnership with WMU Cooley
5. July 31, 2015 - Advanced Topics in Pleas & Sentencing, Anne Yantus, live in Grand Rapids, simulcast in Auburn Hills and Lansing; in partnership with WMU Cooley
6. August 4, 2015 - Juvenile Competency and Mental Health Issues, Christine Piatkowski, Detroit; in partnership with the Third Circuit Court – Juvenile Division
7. August 7, 2015 - Juvenile Competency and Mental Health Issues, Christine Piatkowski, Muskegon; in partnership with Muskegon Community College
8. August 20, 2015 - *Lockridge*: What You Need to Know, Anne Yantus and Margaret Raben, Live in Detroit, presented over livestream; in partnership with CDAM





9. August 21, 2015 - Social Media and Motion Practice, Kelly McDoniel, Grand Rapids; in partnership with the GRBA
10. October 14-15, 2015 - MAACS Annual Orientation & Training, Detroit and Auburn Hills, simulcast in Lansing and Grand Rapids; in partnership with WMU Cooley and MAACS
11. December 3-5, 2015 - Appellate Writing Workshop, Marilena David-Martin, Brad Hall, Valerie Newman, and John Zevalking; in partnership with MAACS
12. December 9, 2015 - Identifying, Investigating and Litigating Cases Involving “Abusive Head Trauma,” Erin Van Campen, Clinton Township; in partnership with the SBM YLS

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“ In this line of practice, sometimes it can be a lonely process, but coming to SADO CDRC trainings remind me that there are extremely dedicated criminal defense lawyers. Coming together builds our community and reminds us that we have a strong support network to bounce ideas off of and to learn new techniques and bits of information. These trainings facilitate a pleasant and professional community.”

– *Michael Dagher-Margosian, Lenawee County Public Defender Office, CDRC Subscriber*

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13. December 11, 2015 – B.Y.O.C. Sentencing Clinic, Jeanice Dagher-Margosian, Marilena David-Martin, Jacqueline Ouvry, and Katherine Root, Flint; in partnership with GCBA
14. December 14, 2015 - Adolescent Development and Its Impact on Juvenile Justice, Christine Piatkowski, Detroit

**SADO offered the following in-house training events for staff members:**

- New Assistant Defender training, covering topics including: appellate procedure, issue spotting, caseload management, client relationships, investigations, and more
- Training for SADO’s summer interns, covering topics including: holistic defense, appellate investigations, brief writing, trial court practice, and more
- Multiple case round discussions, hosted by SADO’s Deputy, focused on brainstorming and strategizing on individual cases
- Periodic discussions by 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

## CDRC and MAACS: Roster Attorney Training and Increased Access to Resources

CDRC's priority continues to be the production of high-quality appellate-focused training for assigned appellate counsel, and increasing access to resources for MAACS attorneys.

### MAACS Training

In its partnership with MAACS, CDRC produced a mandatory Annual Orientation and Fall Training where MAACS roster attorneys had the opportunity to receive nearly twelve hours of continuing legal education over the course of two days. MAACS roster attorneys are currently required to complete at least twelve hours of legal training to maintain good standing on the roster.

The orientation was held on October 14, 2015 at SADO Detroit. The Annual Fall Training took place the next day on October 15, 2015 in Auburn Hills, simulcast in Lansing and Grand Rapids. The orientation and training were largely instructed by SADO and MAACS staff and MAACS roster attorneys and included the following topics: minimum standards, resentencings, getting back into the trial court, maintaining professionalism, e-filing, issue spotting in trial and plea appeals, appellate deadlines, resources for appointed counsel, the Michigan Department of Corrections, and MAACS-specific policies, procedures, and updates.

In addition to the standard annual training, CDRC and MAACS held its first Appellate Writing Workshop this year (see below).

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25

Attorneys were newly admitted to the MAACS roster

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130

MAACS roster attorneys attended the Fall Training in three locations

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57

MAACS roster attorneys obtained Westlaw access

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“All of the speakers gave us information that I can apply immediately to my caseload.”

*Fall Training Feedback*

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“Great job overall this year!”

*Fall Training Feedback*

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“Panel was great. Great insights on how to do a good job with clients whose requests are challenging and to what attorney might advise.”

*Fall Training Feedback*

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## Westlaw

In October 2015, MAACS attorneys became eligible to receive an unprecedented discount for access to Westlaw. For an annual fee of \$250, MAACS attorneys obtained full web-subscription access to [www.SADO.org](http://www.SADO.org) and received personal Westlaw login credentials for unrestricted access to all state and federal case law, secondary legal sources, and more. Fifty-seven MAACS roster attorneys signed up for the package, valued at over \$3,000.

## Appellate Investigation Project

In October 2015, SADO and MAACS launched the Appellate Investigation Project (AIP) with funding from a federal Byrne Justice Assistance Grant. The AIP extended investigative assistance to MAACS roster attorneys on direct appeal case assignments and began taking requests from roster attorneys ahead of schedule in late 2015. Katherine Marcuz, SADO Assistant Defender on special assignment, is the AIP Attorney and Andrew Lee, former Orleans Public Defender, is the AIP Investigator. The AIP will assist with investigations that may lead to testing of evidence, use of experts, challenges to the reliability of convictions obtained at the trial court level, and mitigation of sentences. As an initial matter, the AIP developed a Forensic Science training series in partnership with CDRC, which is aimed at training MAACS roster attorneys in various areas of appellate investigation. The training program launched in January 2016.



Andrew Lee, AIP Investigator and  
Katherine Marcuz, AIP Attorney

### STATE APPELLATE DEFENDER OFFICE and CRIMINAL DEFENSE RESOURCE CENTER

November - December, 2015  
VOLUME 39 ISSUES 2 & 3



### CRIMINAL DEFENSE NEWSLETTER

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#### *Appellate Investigation Project: Making Investigations More Accessible for MAACS Appeals*

Access to investigative services and expert witnesses can have profound effects on individuals seeking to appeal from their felony convictions. Yet, access to investigative services is a challenge faced by many indigent appellate defendants and their attorneys. Nearly 75% of all indigent appellate defendants in Michigan are assigned counsel through the Michigan Appellate Assigned Counsel System (MAACS).<sup>1</sup> In order to hire investigators or experts, MAACS roster attorneys must first request funding approval from judges at the trial court level. These requests present their own challenges and are far from certain to be granted. MAACS roster attorneys are, thus, often faced with the unenviable task of conducting investigations on their own while facing mounting caseloads and limited resources.

The lack of access to investigators on appeal can have devastating results. The National Registry of Exonerations reports that of Michigan's 55 exonerations of actually innocent people wrongfully convicted of crimes, 29 were achieved through more complete investigations. Twelve more were achieved through the use of expert witnesses. These exonerations account for over 200 years wrongly spent in prison. Aside from exonerations, there are also individuals whose convictions were obtained due to erroneous eyewitness identification, faulty forensic science, lack of investigation by trial counsel, false confessions, involuntary or unknowing pleas, and other unreliable evidence that calls into question the integrity of the convictions.

The new Appellate Investigation Project (AIP) hopes to change the status quo. The AIP is federally-funded through the Byrne Justice Assistance Grant;<sup>2</sup> and is an innovative collaboration between SADO and MAACS to provide MAACS roster attorneys with greater access to investigators, as well as training on spotting and litigating extra-record issues and cases in need of expert witnesses.

EXCELLENCE IN MICHIGAN APPELLATE ASSIGNED ADVOCACY AND DEFENSE RESOURCES SINCE 1969  
[www.sado.org](http://www.sado.org)

## CDRC Trainings and Services through Partnership with CDAM and CAP

Through MCOLES funding, CDRC assisted in the production of the spring and fall Criminal Defense Attorneys of Michigan (CDAM) conferences, CDAM's Trial College, and Wayne County's Criminal Advocacy Program (CAP) seminars.

The spring CDAM conference was held in Troy in March 2015 and the fall conference was held in Traverse City in November 2015. Approximately 450 attorneys from all over Michigan attended the two conferences. CDAM's Trial College, held in Lansing in August 2015, had approximately 39 attendees. SADO offered 12 scholarships to attendees based on demonstrated need.

The Wayne County Criminal Advocacy Program (CAP) sessions provide mandatory training for the Wayne County Criminal Defense Bar Association, made up of approximately 500 attorneys taking assignments in criminal cases in Detroit. CDRC records all CAP sessions, coordinates the presentations, manages training material, and hosts the CAP website, [www.capwayne.org](http://www.capwayne.org). The schedule for each of this year's 12 CAP sessions, including videos and materials for each session can be found on the website. SADO's Director and CDRC's Administrator serve as CAP Board members and actively participate in the planning of the CAP program.

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Attorney Matthew Evans gave a presentation on Probation Violations and HYTA at a CAP seminar in September 2015

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**Attorney-to-Attorney Support Project:** 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, directly consulting with criminal defense attorneys needing assistance with legal and procedural issues. The research attorneys record all Attorney-to-Attorney transactions in a database monitored by the CDRC Administrator. The attorneys captured information about the nature of the research performed, including 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, which in turn informs the CAP Board about areas of programming for the next year's sessions. The research attorneys fielded approximately 1,300 inquiries during the year.

## **The Launch of Two New Training Programs**

CDRC launched two new and hands-on trainings this year, with the goal of increasing practical training opportunities that could translate into real-world results. Both trainings were hugely successful and will be offered regularly due to the promising feedback from attendees, many of whom achieved tangible positive results following the trainings.

### **a. Three Day Appellate Writing Workshop**

The first annual MCOLES grant-funded Appellate Writing Workshop (AWW) was held at the SADO Detroit Office on December 3-5, 2015. Attendees participated in the three day workshop, which focused on writing and storytelling techniques, issue spotting and development, developing case theory and legal analysis, technical writing skills and research tips, appellate procedures, client relationships, and practical oral advocacy skills. In small group sessions, participants used a mock transcript to draft a statement of facts, issue headings, and legal analysis with feedback from participants and instructors.

The training was free for all attendees, and out of town attendees were awarded scholarships for lodging and meals. The training was planned and instructed by Marilena David-Martin, Brad Hall, Valerie Newman, and John Zevalking. MAACS was an invaluable training partner for the AWW.



## Participant Feedback

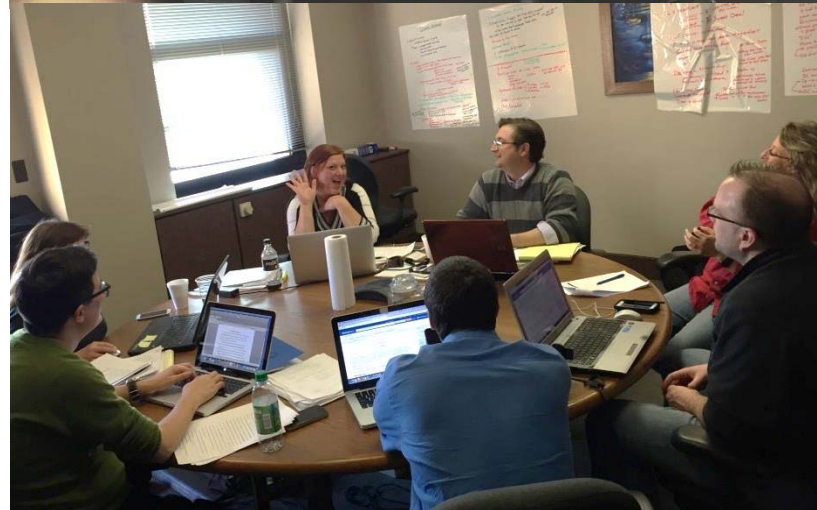
"I can't say enough positive things about my experience in this workshop. Before leaving the parking lot Saturday after the training, I actually sent a text message to a friend on the MAACS list telling her to make sure she signs up next time the workshop is offered!"

"I had an amazing time."

"The seminar was life-altering for me. I learned new ways to analyze my cases, to write briefs, and to prepare for oral arguments, as well as new methods to develop and maintain good client relationships."

"Every one of the instructors was kind, knowledgeable, and seemed eager to help us become better appellate attorneys. Their energy made it enjoyable to be there, even on a Saturday morning."

"It was well worth my time to attend and I look forward to future conferences."



### b. B.Y.O.C. Sentencing Clinic

CDRC's first annual Bring Your Own Case (B.Y.O.C.) Sentencing Clinic was held on December 11, 2015 in Flint.

The Genesee County Bar Association (GCBA) sponsored the training by providing lunch. Genesee County attorneys and GCBA members Scott Bigger and Jessica Mainprize-Hajek helped coordinate the training and provided the training location. SADO attorneys Marilena David-Martin, Jeanice Dagher-Margosian, and Jacqueline Ouvry, and SADO Social Worker Katherine Root, instructed the training.



"The Sentencing Clinic offered in Flint changed the way that I approach sentencing hearings and I believe that it has made a difference for my clients."

– Scott Bigger, Genesee County, CDRC  
Subscriber, pictured here at the B.Y.O.C.  
Sentencing Clinic

Twelve criminal defense attorney attendees brought their own cases, and as a group, worked to develop a mitigation and a sentencing advocacy plan for upcoming sentencing hearings.

Feedback was overwhelmingly positive. One attendee explained afterward that the advice she received from the instructors to “look past the crime and look at the individual,” motivated her to dig deep and to find out what her client valued. She used that knowledge to connect with her client, who was heartened that she showed care through her advocacy.

“Thanks to SADO, I was able to approach this case differently and in the best interest of my client.”  
- Lori Selwidge, Genesee County



## National Trainings Attended By Staff

Attorneys and support staff are regularly encouraged to attend training events outside of the office with the understanding that knowledge gained will be shared with staff following the training. Additionally, all staff members have access to the online training resources of the National Association for Public Defense where hundreds of web-based training events are archived for access at the convenience of the trainee.

SADO and MAACS staff attended the following national trainings:

May 2015 - Innocence Network Conference in Orlando, FL

June 2015 - Darrow Baldus Defense College in Iowa City, IA

June 2015 - NLADA Leadership Institute in Columbia, SC

July 2015 - NAPD Executive Leadership Institute in Valparaiso, IN

September 2015 - Investigation Institute for Investigators and Attorneys in Kentucky

November 2015 - Bode's DNA and Investigator's Conference in Philadelphia, PA

November 2015 - Bryan Garner's Writing Workshop in Columbus, OH





## Staff as Training Faculty and Staff Speaking Engagements

Staff members are routinely called upon to present at trainings, serving as experts in all areas of criminal defense and sharing their knowledge with members of the criminal defense community. Staff members also regularly volunteer with community organizations, prisons, and law schools, and participate in speaking engagements on topics related to indigent defense and the criminal justice system. The staff conducted the following training and professional development seminars throughout the year:

Staff Member	Training Faculty and/or Professional Speaking Engagements
Doug Baker	Summer Intern Training
Linda Borus	Summer Intern Training, New Assistant Defender Training
Jeanice Dagher-Margosian	B.Y.O.C. Sentencing Clinic, CDAM Sentencing Workshop
Marilena David-Martin	MAACS Orientation and Annual Training, B.Y.O.C. Sentencing Clinic, Appellate Writing Workshop, CDAM Fall Conference, New Assistant Defender Training, SADO's Family Informational Sessions, National Lifer's Association, CAPPS Community Meeting
Randy Davidson	MAACS Annual Training, Michigan Judicial Institute, New Assistant Defender Training, Summer Intern Training
Wendy Dealca	New Assistant Defender Training, Summer Intern Training
Brett DeGroff	University of Michigan Career Panelist
Desiree Ferguson	Summer Intern Training, Expungement Fair for Detroit Hispanic Development Corp., CAPPS Community Meeting, COTS Know Your Rights Seminar
Fernando Gaitan	New Assistant Defender Training
Nicole George	Summer Intern Training
Brad Hall	MAACS Orientation and Annual Training, Appellate Writing Workshop, Michigan Association of Circuit Court Administrators Conference, Federal Bar Association Career Panel, CDAM Conferences
Kristin LaVoy	Summer Intern Training, University of Michigan Public Interest Panel
Katherine Marcuz	MAACS Annual Training, Summer Intern Training
Jacqueline McCann	Sentencing Law Update, New Assistant Defender Training, Summer Intern Training
Marla McCowan	Appellate Timeline Webinar, Internet and Tech Tips for SCBA, CDAM Spring Conference, MAACS Orientation
Susan Meinberg	New Assistant Defender Training
Michael Mittlestat	MAACS Annual Training, New Assistant Defender Training

Valerie Newman	MAACS Annual Training, Appellate Writing Workshop, Michigan State Planning Body, PCR Skills Workshop for Missouri Public Defender, Exoneration Panel at Cooley Law School, Speaker at University of Detroit Mercy Law School, Summer Intern Training
Jacqueline Ouvry	WCCDBA Sentencing Law and Mitigation Training, B.Y.O.C. Sentencing Clinic
Christine Pagac	Exoneration Panel at Cooley Law School
Frank Rodriquez	Speaker at University of Detroit Mercy Law School, Speaker at Oakland Jail Ministries
Katherine Root	B.Y.O.C. Sentencing Clinic
Jonathan Sacks	Appellate Timeline Webinar
Patricia Selby	National Lifer's Association
Amanda Smith	New Assistant Defender Training, SADO's Family Informational Session
Chris Smith	MAACS Orientation, New Assistant Defender Training, CAPPS Community Meeting
Erin Van Campen	"Abusive Head Trauma" Training, CDAM Fall Conference, Summer Intern Training
Bryan Vance	New Assistant Defender Training,
Dawn Van Hoek	New Assistant Defender Training, Access to Justice seminar at Wayne State University Law School
Peter Van Hoek	MAACS Orientation, New Assistant Defender Training, Summer Intern Training
Anne Yantus	Corrections Spending Panelist, GCBA Annual Seminar, Plea & Sentencing Training, ICLE training on <i>Lockridge</i> , <i>Lockridge</i> Webinar, Wayne County CAP Seminar, CDAM Conferences
Jessica Zimbelman	MAACS Orientation, SBM Prisons & Corrections Annual Training, District Judges Association Criminal Law Update, SADO's Family Informational Sessions, National Lifer's Association

*Right:* Valerie Newman and Christine Pagac

WMU Cooley Law School  
Exoneration Panel  
March 2015



*Left:* Frank Rodriguez

Oakland Jail Ministries  
September 2015

## SADO Print and Web Resources

### a. Website

[www.SADO.org](http://www.SADO.org) contains resources for criminal defense attorneys and the public. The home page contains regularly-updated articles and announcements on criminal law topics. Web-based databases are updated regularly, including those containing sample briefs, appellate summaries, and transcripts. Many of the resources on [www.SADO.org](http://www.SADO.org) are complimentary and available to all; some resources are password-protected and limited to subscribers only. Other resources are limited to defense attorney subscribers only.

In 2015, there were 846,754 visits to the website.

Below are just some of the resources maintained by CDRC and housed at [www.SADO.org](http://www.SADO.org):

Resource or Service	Complimentary	Subscription-Based
Defender Book Series		X
Practical Manuals		X
Brief Bank		X
User Pleadings	X	
Self-Help Resources	X	
Sample Pleadings	X	
Forum		X
Criminal Defense Newsletter		X
Appellate Summaries		X
Re-Entry Database	X	
Expert Witness Database		X
Police Misconduct Database		X
Training Calendar	X	
Training Video and Material Archive		X

### b. SADO's Online Forum

The Forum, 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.

In 2015, there were 7,463 forum posts from criminal defense practitioners. The forum remains the most popular feature of SADO's website.

### **c. Defender Books**

The Defender Trial Book, Defender Plea, Sentencing and Post-Conviction Book, Defender Motions Book, and Defender Habeas Book reside on SADO's website where subscribers have convenient access. Electronic versions of the books are available on a flash drive or in print for an additional fee. These four annually-updated books contain up-to-date summaries of the law on all aspects of criminal law and procedure, from arrest through appeal. The Defender Motions and Habeas Books contain model pleadings that can be adapted for use in any case. Summaries and analyses of case law, statutes, court rules and legal practice tips are also included in the book series. A small companion to the book series is the Defender Sentencing Guidelines Manual Annotated. This annotated manual remains one of CDRC's most popular products.

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"The Defender's Sentencing Guidelines Manual Annotated, produced by SADO has become my go to resource in advising clients on sentencing issues. I have also been extensively using the Defender Sentencing Book, the Defender Motion Book, the Model Pleadings, and the online forum. Without these resources, I would be much more limited in my ability to efficiently and effectively serve my clients both on the appeals and trial levels."

*— Joel Kershan, Monroe County, CDRC Subscriber*

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### **d. Criminal Defense Newsletter and Summaries**

The Criminal Defense Newsletter delivers essential information to subscribers in both electronic and hard copies. Each of the nine issues published in 2015 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. Contract Associate Editor Neil Leithauser is a central contributor of Newsletter content.

Summaries of appellate decisions provide criminal defense attorneys with timely and concise legal updates and 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, and significant decisions from other states. In large part, the summaries provide the foundation upon which the Defender Books are updated and serve to bridge the information delivered between the annual updates of the Defender Books themselves.

In 2015, CDRC distributed approximately 330 summaries of appellate orders and decisions to subscribers through the Criminal Defense Newsletter and via email.

#### **e. New Resources and Services**

The first edition of the Defender Guide to Michigan's Commutation Process was published this year. Frank Rodriguez authored the manual while working as a SADO paralegal. Frank spent approximately 17 ½ years in prison before securing his own release through commutation in 2011. The manual is available on [www.SADO.org](http://www.SADO.org).

Following the landmark case of *People v Lockridge*, 498 Mich 358 (2015), declaring Michigan's Sentencing Guidelines unconstitutional, SADO attorneys produced guidelines for attorneys and defendants made available on [www.SADO.org](http://www.SADO.org) and through the Criminal Defense Newsletter. The criminal justice community relied heavily on these guides as the legal landscape following *Lockridge* was uncertain and ever-evolving.

A new feature of the website called "User Pleadings" launched in October 2015. User Pleadings allows users to search pleadings uploaded by other website users. Pleadings can include motions and briefs filed in Michigan's circuit courts, Court of Appeals, and Supreme Court. Pleadings are searchable by Court, pleading type, and the submitter of the pleading. User Pleadings is a password-protected feature of the website that is complimentary for all users.

#### **f. Subscribers**

Approximately 500 customers subscribed to CDRC's web services in 2015. In addition to web-subscriptions, CDRC sold over 700 print resources. User fees support a portion of the costs of books, newsletters, copying, and operation of the SADO website.

CDRC's Administrator regularly fields phone calls and emails from subscriber and non-subscriber practitioners and the public, who call with questions relating to legal analysis, procedure and strategy.

CDRC also regularly supplies complimentary resources, including Defender Books, Manuals, Newsletters, and flash drives to criminal defense attorneys at various conferences throughout the state. All public defender offices and prisons are provided with complimentary resources. All of CDRC's trainings are free to subscribers and non-subscribers.

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"As a relatively new criminal appeals attorney, I have found the support that I have received from both SADO and MAACS to be very helpful. I routinely rely on the materials that SADO includes on their website, and I have found the attorneys at SADO to be a highly valuable resource when new issues arise. Without these resources, I would be much more limited in my ability to efficiently and effectively serve my clients both on the appeals and trial levels."

- Joel Kersham, Monroe County, CDRC Subscriber

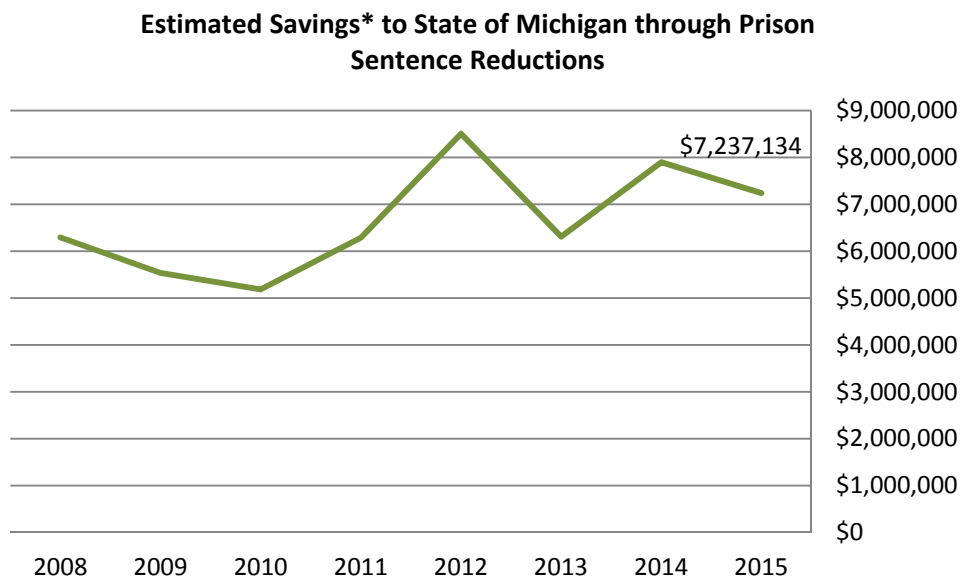
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## Goal 4: Provide cost-effective services that represent a good return on investment to Michigan taxpayers

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### 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.



\* The cost of prisoner incarceration is supplied by the Michigan Department of Corrections and was \$34,962 annually in 2015.

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.

## **Video visits with clients**

Video-conferences with clients occur routinely, 510 times by SADO staff during 2015 as a supplement to in-person visits, 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 1027 virtual visits in 2015.

## **Goal 5: Advocate for improvements in the administration of justice**

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As statewide agencies, SADO and MAACS are uniquely situated to interact with policy stakeholders in the criminal justice system and with the public.

### **State Bar service**

SADO and MAACS 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), Appellate Practice Section Council (Valerie Newman and Brad Hall), and Prisons and Corrections Sections (Chair Jackie Ouvry and immediate past-chair Jessica Zimbelman), 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), and District Character and Fitness Committee (Randy Davidson).

### **Court rule proposals**

Through a court rules committee, SADO and MAACS submitted court rule amendments, and commented on court rule proposals involving appellate procedure, guilty plea procedure, electronic filing of documents, foreign language interpreters, caseload 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.

### **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 2015, the Committee continued to update the Re-entry Database, which was launched in 2014:

- 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.

### **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.