

STATE APPELLATE DEFENDER OFFICE

ANNUAL REPORT

7 - 2

History

The State Appellate Defender Office was created in mid-1970 and officially began accepting assignments in September of that year. The purpose of this office has been to provide, in criminal post-conviction matters, competent legal representation consistent with constitutional requirements of equal justice and due process.

From 1970 to 1978 the State Appellate Defender Office was based in and operated only out of Detroit. However, beginning January 1, 1979, there will be a Lansing division of the State Appellate Defender Office. This Office will improve the delivery of services to northern counties, cut travel expenses and facilitate access by more individuals and agencies to SADO's expertise in the area of criminal law.

The Defender is appointed by the Michigan Supreme Court, the Michigan Court of Appeals, the Michigan Circuit Courts and the Detroit Recorder's Court to represent indigents on regular appeals and a variety of other post-conviction proceedings.

Once the Defender is appointed as counsel for a particular client, the necessary court documents are processed and an Assistant Defender is assigned to handle that case until completion. In general, the Assistant Defender's work consists of examining the lower court documents, interviewing clients, investigating, researching issues, making motions and oral arguments, and writing briefs.

The State Appellate Defender Office is supervised by the seven member Appellate Public Defender Commission which is appointed by the Governor. The trial courts, the Court of Appeals and the Supreme Court each have one recommendation; the State Bar, two recommendations; and the Governor, two recommendations.

The information presented in this report does not fully describe all the work of the State Appellate Defender Office. The average case has several actions prior to final disposition. Actions in the trial court include: motions for new trial, motions for bond pending appeal, evidentiary hearings, and motions to vacate or modify sentence. Actions in the Court of Appeals include: briefs on appeal, motions for remand, motions for peremptory reversal, motions for bond pending appeal, interlocutory appeals, petitions for superintending control, and applications for leave to appeal. Actions in the Michigan Supreme Court include: applications for leave to appeal, interlocutory appeals, motions for bond pending appeal, and petitions for superintending control.

The State Appellate Defender Office has appeared as counsel at all levels of the Michigan and Federal judiciaries. State Appellate Defender Office attorneys make regular client visits and lower court appearances in virtually all areas of this state. Regular court appearances are also made before the Michigan Supreme Court and locations at which the Court of Appeals sits.

In addition to the work produced in each case, the office is involved in collateral matters, which impact upon the criminal justice system at almost every level. Recently, the Office of Criminal Justice Programs awarded a grant to the State Appellate Defender Office to develop a Legal Resources Project. This Project was conceived and approved in response to demand for specialized assistance in the area of criminal law and procedure by Legislators, attorneys, private and state agencies, and interested citizen groups seeking information on legislation and pending cases.

More than 3,000 appellate briefs covering 7,000 issues in Michigan Criminal Law are now available from the State Appellate Defender Office. Access to this information through the Project will eliminate some duplication of effort by attorneys throughout the state and result in more cost-effective representation on a statewide basis. The Project publishes a criminal defense newsletter on significant developments in Michigan and Federal law.

In the upcoming year, the State Appellate Defender Office will prepare a criminal appellate practice and procedure book which will become a guide on processing appeals to attorneys, secretaries, law students, paralegals and all others interested in criminal practice. The book will cover the "nuts and bolts" of processing post-conviction cases, including basic appellate pleading and practice, brief writing and organization, institutional policies on client visits and example forms. It will be distributed free throughout the state to law libraries and attorneys who regularly handle assigned indigent appeals.

Further, the State Appellate Defender Office has conducted and will continue to conduct training seminars for members of the various defender offices throughout the state and private attorneys assigned to represent indigent criminal defendants. Video lectures utilizing these seminars, plus whatever supplementation of these deemed necessary and/or helpful, will be made available to all assigned counsel throughout the state.

SUMMARY OF CASE ACTIVITY FROM 7/1/77 TO 6/30/78

Below is a summary of actions taken on cases during the 1977-1978 reporting period. It should be noted that several cases which are closed during the year are reopened for further proceedings at a later time. The majority of the post-conviction cases closed at the trial court and Court of Appeals levels are reopened for further appeal. Also, several of those closed in the Michigan Supreme Court are pursued at a later time in federal court or via delayed motion for new trial in the trial court.

At the close of this reporting period, the State Appellate Defender Office had 697 open, active cases. The Defender received 467 new assignments during this period and lower court records and transcripts in 563 cases.

The following statistics pertaining to case activity are approximations, with a range of error of plus or minus five percent (5%). On July 1, 1978 the State Appellate Defender Office changed its record-keeping system, and, as a consequence, has been unable to provide completely accurate statistics. The new system will solve the problems experienced in the past and provide more complete and accurate information.

ACTIVITY ON CASES CLOSED 7/1/77 TO 6/30/78

I. TRIAL COURT

1. Withdrew as counsel -----	1
2. Client retained own counsel -----	1
3. Case dismissed -----	1
4. Appeal withdrawn -----	2
5. SADO Withdrew as counsel by request/appointment returned -----	10
6. Substitute counsel appointed -----	1
7. Regular disposition -----	16
TOTAL	32

II. COURT OF APPEALS

1. Withdrew as counsel -----	7
2. Client died -----	1
3. SADO motion to withdraw as counsel granted -----	5
4. Confession of error by Prosecutor -----	1
5. Appeal dismissed by stipulation -----	60
6. Appeal dismissed on motion -----	4
7. Appeal dismissed as moot -----	1
8. Appeal dismissed for lack of progress -----	1
9. Case remanded -----	13
10. Regular disposition -----	178
TOTAL	271

III. SUPREME COURT

1. Case dismissed -- client died -----	1
2. Appointment vacated -----	4
3. Appeal dismissed -----	1
4. Prosecutor's leave denied -----	6
5. SADO leave denied -----	76
6. Other disposition -----	20
TOTAL	108

IV. FEDERAL COURT*

1. Writ of Habeas Corpus denied -----	1
---------------------------------------	---

TOTAL FINAL DISPOSITIONS ----- 412

*Past record-keeping procedures did not track all federal cases.

ACTIVITY ON CASES OPEN 7/1/77 TO 6/30/78

During the 1977-1978 reporting period, the State Appellate Defender Office filed a variety of pleadings at all levels of the Michigan judiciary. Twenty-five (25), fifty-eight (58) and thirty-five (35) different types of pleadings were filed in the trial courts, the Court of Appeals and the Supreme Court, respectively. Only activity on some of the major pleadings in open cases is detailed below.

I. TRIAL COURT

Motion New Trial with supporting Memorandum of Law-----	16
Motion Vacate Plea/Conviction/Sentence -----	7
Motion Evidentiary Hearing -----	1
Motion Bond -----	10
Motion Withdraw as Appellate Counsel-----	4
Supplemental Motion New Trial -----	4
Motion Withdraw Plea -----	2
Motion Resentencing -----	6
Motion Vacate Order of Appointment -----	2
Motion Correct Sentence -----	1
Motion for Final Disposition -----	1
Hearing on Remand Pending -----	15
Cases assigned to SADO, No Claim Filed -----	56

II. COURT OF APPEALS

Claim Filed -- No Transcript -----	27
Claim Filed -- Transcript Received -----	317
Application for Leave -----	13
Leave Case, Transcript Received -----	17
Previous Attorney, No Action by SADO -----	4
Transcript Received -- Claim not filed -----	19
No action this year -----	55
Motion Withdraw as Appellate Counsel -----	1
Contempt Action Against Court Reporter -----	7
Motion Bond/Personal Recognizance -----	5
Motion Clarification/Guidance -----	2
Motion Hold in Abeyance -----	1
Motion Remand (Including Supplementals)-----	46
Motion Peremptory Reversal -----	27
Briefs -----	224
Supplemental Brief -----	6
Motion Strike -----	2
Motion Consolidate -----	17
Motion Dismiss -----	2
Orals Argument Had -----	76
Motion/Application Rehearing/Reconsideration -----	11
Application for Cross Appeal -----	2
Motion Resentencing -----	4
Motion Presentence Report -----	4
Motion Affirm (Prosecutor Appeal)-----	1
Motion to Correct Sentence -----	1

III. SUPREME COURT

No Action this Year -----	20
Motion for Bond -----	1
Application for Leave to Appeal -----	53
Supplemental Application and Brief -----	3
Motion for Reconsideration -----	3
Briefs/Briefs in Support of Application -----	57
Application for Cross Appeal -----	2
Motion Vacate Appointment -----	1
Leave Granted SADO -----	5
Leave Granted Prosecutor -----	1
Decision Rendered Further Action Pending -----	6

IV. FEDERAL DISTRICT COURT

Petition for Writ Habeas Corpus ----- 7

V. UNITED STATES SUPREME COURT

Briefs Filed ----- 1
Orals Had ----- 1

FILINGS BY SADO 7/1/77 -- 6/30/78*

Court	Closed Cases	Open Cases	Reporting Year Total
I. Trial Court	119	51	170
II. Court of Appeals	905	822	1,272
III. Supreme Court	138	67	205
TOTALS	1,162	940	2,102

These are all substantive filings -- ministerial filings, such as motions to extend time and motions for oral argument are not included in the figures above.

NUMBER OF MOTIONS FILED FOR EACH CASE
IN WHICH A BRIEF IS FILED

	Closed Cases	Open Cases	Total
One motion	109	87	196
Two motions	45	18	63
Three motions	19	4	23
Four motions	8	1	9
Five motions	4	1	5
Six motions	1	0	1
Seven or more motions	5	0	5
TOTALS	191	111	302

*Again, because of the changes in record keeping, these figures have a range of error of plus or minus 5%. Federal court and US Supreme Court filings are not included.

1977 -- 1978 ANNUAL REPORT

DISPOSITION OF ALL CASES CLOSED
SINCE THE 1970 FORMATION OF THE STATE APPELLATE DEFENDER OFFICE

I. TRIAL COURT

1. Assigned in error, improper assignment, etc -----	33
2. Assigned to advise client only -----	1
3. Withdrew as counsel -----	28
4. Client retained own counsel -----	15
5. Client missing, no possible action -----	2
6. Case dismissed -----	4
7. Appeal withdrawn -----	9
8. Client released on habeas corpus -----	1
9. SADO withdrew as counsel by request/appointment returned -----	40
10. Substitute counsel appointed -----	1
11. Final disposition reached -----	155

II. COURT OF APPEALS

1. Withdrew as counsel -----	57
2. Client retained own counsel -----	3
3. Client missing, deceased -----	3
4. SADO motion to withdraw as counsel granted -----	165
5. Prosecutor's motion to dismiss appeal granted -----	1
6. Application for leave to appeal denied -----	29
7. Confession of error by prosecutor -----	2
8. Appeal dismissed as moot -----	6
9. Appeal dismissed by motion or stipulation -----	326
10. Appeal dismissed for lack of progress -----	1
11. Final disposition reached -----	1,378

III. SUPREME COURT

1. SADO removed as counsel, client found not indigent -----	3
2. Withdrew as counsel -----	5
3. Client withdrew appeal -----	3
4. Case dismissed -- client missing -----	3
5. Appointment vacated -----	28
6. Appeal dismissed -----	7
7. Prosecutor's leave denied -----	33
8. Prosecutor's leave granted -----	29
9. SADO leave denied -----	541
10. Disposition by Supreme Court on plea cases from Court of Appeals -----	10
11. SADO leave granted -- client retained own counsel -----	5
12. Final disposition reached -----	265

IV. FEDERAL COURT

1. writ of habeas corpus -----	4
--------------------------------	---

V. U.S. SUPREME COURT

1. Writ of certiorari by prosecutor granted -----	1
2. Writ of certiorari by prosecutor denied -----	2
3. Final disposition reached -----	1