

1981/1982 ANNUAL REPORT OF THE  
STATE APPELLATE DEFENDER OFFICE

Respectfully submitted by

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1981/1982 ANNUAL REPORT OF THE  
STATE APPELLATE DEFENDER OFFICE

History

The State Appellate Defender Office was created in 1970 to provide competent legal representation in criminal post-conviction matters, consistent with constitutional guarantees of effective representation in criminal cases, equal justice and due process of law. The office had its genesis in Michigan Supreme Court Administrative Order 1970-1 and functioned under the auspices of the Supreme Court within the office of the State Court Administrator.

From 1970 to 1978 the Office was based in and operated only out of Detroit. However, in January of 1979 the Lansing division of the office began operations. That division was established to improve the delivery of services and facilitate access by more individuals and agencies to the Defender Office's expertise in the area of criminal law and procedure.

Staff

Fifteen (15) staff attorneys, the Defender, Chief Deputy Defender, Legal Resources Project Director and Training Coordinator are housed in the Detroit Office. Four (4) staff attorneys and the Deputy Defender are housed in the Lansing office. These attorneys are supported by ten (10) legal secretaries, an Investigator and Paralegal Assistant, eight (8) Administrative Assistants, two and one-half (2-1/2) clerks, (1) one receptionist and approximately fifteen (15) part-time research assistants.

Each year one of the staff attorneys is chosen to teach the Criminal Appellate Practice Course at the University of Michigan Law School. Course students provide research assistance on the cases assigned to that teaching attorney in return for credits and the unique learning experience the course offers.

Fortunately, through reorganization and automation, the office was once again able to hire students and post-graduates on a part-time basis to assist some of the other staff attorneys. These students and a student-assisted, fully-operational Special Unit enabled the office to handle 20% more cases than it did last year.

## Case Activity

The Defender Office is appointed by the Michigan Supreme Court, the Michigan Court of Appeals, the Michigan circuit courts and the Recorder's Court for the City of Detroit to represent indigent criminal defendants on regular appeals and in a variety of other post-conviction proceedings.

Deputy Defenders and Assistant Defenders are assigned to actually handle the cases. In general, the work consists of reviewing lower court records, interviewing clients, investigating, researching issues, filing all necessary pleadings and conducting oral arguments.

Office attorneys appear as counsel at all levels of the Michigan and Federal judiciaries. They make regular client visits and lower court appearances in virtually all areas of this state. They also appear before the Michigan Supreme Court and the Court of Appeals, and, in selected cases, before Michigan's Federal district courts, the Federal Court of Appeals for the Sixth Circuit and the United States Supreme Court.

During this reporting year, the Office accepted a record 820 assignments, and office attorneys handled a similar record 783 cases: 18 regular staff attorneys handled 606 cases; 2 Special Unit attorneys handled 177 cases (this unit does not handle trial, or complex, or difficult appeals).

During fiscal year 81/82, the Supreme Court, Court of Appeals, forty-five (45) circuits and Recorder's Court assigned the State Appellate Defender Office. Ten (10) circuits did not (1, 8, 13, 15, 16, 17, 20, 24, 45 and 52); and seven (7) of those ten (10) have not over the last three (3) years (1, 8, 15, 16, 20, 45 and 52). Ten (10) circuits that did not appoint the State Appellate Defender Office last year (7, 9, 12, 14, 19, 22, 33, 34, 44 and 47) did this year.

Of the forty-eight (48) assigning authorities, eleven (11) circuits and the Recorder's Court reduced the number of assignments they were making to the State Appellate Defender Office; thirty (30) circuits (including four (4) that had not previously assigned the State Appellate Defender Office) increased the number of cases assigned to the State Appellate Defender Office; and six (6) showed no change.

At the close of this reporting period, the office had a total of 1,283 open, active cases, 820 new assignments had been received, and 735 cases closed. The office processed a total of 2,018 cases this year.

## Collateral Services and Special Projects

In addition to the work produced in each case, the Office is also involved in collateral matters associated with all facets of the criminal justice system. The Legal Resources Project component of the office is now in its fifth year of operation. It is still the only statewide informational resource for criminal defense attorneys.

Information available through the Project includes: all briefs and motions on file in the State Appellate Defender Office; 1,500 copies monthly of a criminal defense newsletter covering significant developments in Michigan and federal law; an expert witness file containing names and resumes of experts who have been used or recommended by attorneys across the state; and research memoranda of important, complex, or new areas of the law.

During this year, the project responded to a total of over 3,425 requests for information, sent out more than 46,600 pages of materials, which provided indigent criminal defendants and those who represent them access to the office's over 4,000 briefs and memoranda covering more than 10,000 issues. The project's newsletter has over 1,000 regular subscribers. The project served 63 of Michigan's counties and 140 of its cities and provided information for 26 cities in 20 different states. This year it also conducted 760 WestLaw Computer searches for its clientele.

The Office continued to conduct training seminars for attorneys representing indigent defendants in criminal proceedings in conjunction with the Criminal Defense Attorneys of Michigan. Several seminars and video training seminars were held this year, and similar training programs are planned for the upcoming year.

The Training Coordinator made commendable progress in the Training Manual for Criminal Appellate Attorneys before he had to stop working on that project and return to handling cases full time because of the office's increased caseload.

The Special Unit, established in 1980 to expeditiously handle non-trial appeals and to process cases requiring immediate action was incredibly productive and efficient, despite the mid-year loss of its paralegal early release specialist. The two Unit attorneys handled 177 appeals. The Senior Unit Attorney had a remarkable 43% combined full/partial relief rate.

The Office made great strides toward transferring its systems to computer technology. Its Special Projects Coordinator has trained all secretaries and any other interested staff to do word

processing, computerized records keeping and brief banking, and will soon have developed a data base so that there can be automated data processing.

Several thousand dollars in professional brief-printing costs were saved by using the word processing component of the computer to print briefs in-house.

Although new data gathering systems are being used by the office, some crucial information is still unavailable, so this report cannot fully describe all the work of the office. The average case has several actions prior to final disposition. Examples of the various types of actions taken on a particular case before final disposition may be found in the case activity reports which follow. Many cases which are closed during the year are reopened for further proceedings at a later time. Cases closed at the trial court and Court of Appeals levels are reopened for further appeal, and 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.

#### CORRECTIONS TO 80/81 REPORT

The last page of the narrative to the 80/81 report should have stated as follows:

"At the close of this reporting period, the Office had a total of 1,150 open, active cases, 693 new assignments had been received and 584 cases closed.

"The Office received 557 of the 693 new assignments from thirty-five (35) judicial circuits, one hundred twenty (120) from Recorder's Court, five (5) from the Court of Appeals and eleven (11) from the Michigan Supreme Court. Nineteen circuits did not appoint the Office this year: 1, 7, 8, 9, 12, 13, 14, 15, 16, 17, 19, 20, 22, 33, 35, 44, 45, 47 and 52.

ANNUAL REPORT  
STATE APPELLATE DEFENDER OFFICE

TOTAL NEW ASSIGNMENTS 7/1/81 to 6/30/82	820
TOTAL ACTIVE CASES as of 6/30/82	1,283
TOTAL CASES CLOSED 7/1/81 to 6/30/82	735
TOTAL CASES PROCESSED 7/1/81 to 6/30/82	2,018

LAST ACTION ON CASES OPEN 7/1/81 to 6/30/82

I. TRIAL COURT

Cases assigned to SADO, no claim filed - transcript not received	80
Cases assigned to SADO, no claim filed - transcript received	55
Motion New Trial with supporting Memorandum of Law	13
Remanded, hearing/decision pending	11
Motion Resentence	7
Motion Vacate Plea/Conviction/Sentence	2
Leave case - no action	1
Motion Summary Judgment	1
Prosecutor Appeal - no action	1
TOTAL	171

II. COURT OF APPEALS

Claim filed - transcript received	281
Brief filed	279
Oral Argument had	164
Claim filed - no transcript	112
Motion Remand/Resentencing	13
Remanded, jurisdiction retained	8
Remanded, decision pending (Michigan Supreme Court)	6
Application for Delayed Appeal pending	5
Motion Rehearing/Reconsideration	5
Stipulation/Motion Dismiss pending	3
Supplemental Brief	2
Motion Peremptory Reversal	2
Motion Clarification	1
TOTAL	881

III. SUPREME COURT

Application for Leave to Appeal with Brief	154
Application for Leave to Appeal - Order holding in abeyance	25
Leave granted - Oral Argument had	15
Application for Leave to Appeal (Prosecutor appeal)	9
Cases assigned to SADO - transcript received	7
Prosecutor Answer to Show Cause	5
Leave granted, brief filed	3
Leave granted, no action this year	2
Application for Reconsideration	2
TOTAL	222

IV. UNITED STATES COURTS - DISTRICT/APPEALS/SUPREME

Petition Writ of Habeas Corpus	3
Motion for Leave to Proceed In Forma Pauperis	2
Brief filed	1
Motion Dismiss	1
Notice of Appeal	1
Reply to Attorney General's Brief	1
TOTAL	9

ANNUAL REPORT  
STATE APPELLATE DEFENDER OFFICE

ACTIVITY ON CASES CLOSED 7/1/81 to 6/30/82

I. TRIAL COURT			
Substitute counsel appointed			46
Motion Resentence granted/denied			18
Reversed Plea/Sentence/Conviction			17
Dismissed by motion/stipulation			14
Appointment vacated/terminated			9
Motion New Trial granted/denied			5
	TOTAL		107
II. COURT OF APPEALS			
Regular disposition			345
Appeal dismissed by stipulation/motion			88
Rehearing denied			8
Application for Delayed Appeal denied			4
SADO Motion Withdraw as counsel granted			2
	TOTAL		447
III. SUPREME COURT			
Leave denied - SADO/Prosecutor			121
Reversed and remanded			34
Reconsideration denied			12
Appointment vacated			2
Other disposition			8
	TOTAL		177
IV. UNITED STATES COURTS - DISTRICT/APPEALS/SUPREME			
Writ of habeas corpus denied			2
Motion to Dismiss Granted			1
Affirmed			1
	TOTAL		4

FILINGS BY SADO 7/1/81 to 6/30/82

COURT	Closed Cases	Open Cases	Reporting Year Total
I. TRIAL COURT	44	98	142
II. COURT OF APPEALS	379	1,434	1,813
III. SUPREME COURT	104	222	326
IV. UNITED STATES COURTS	8	13	21
TOTAL	535	1,767	2,302

ANNUAL REPORT  
STATE APPELLATE DEFENDER OFFICE

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

I. TRIAL COURT		
Assigned in error, improper assignment, etc.		35
Assigned to advise client only		1
Withdrew as counsel		38
Client retained own counsel		16
Client missing, no possible action		2
Case dismissed		31
Appeal withdrawn		29
Client released on habeas corpus		1
SADO withdrew as counsel by request/appointed returned		60
Substitute counsel appointed		120
Final disposition reached		<u>304</u>
	TOTAL	635
II. COURT OF APPEALS		
Client retained own counsel		4
Client missing, deceased		11
SADO motion to withdraw as counsel granted		227
Prosecutor's motion to dismiss appeal granted		2
Application for Delayed Appeal denied		50
Confession of error by prosecutor		2
Appeal dismissed as moot		7
Appeal dismissed by motion or stipulation		658
Appeal dismissed for lack of progress		1
Final disposition reached		<u>2,556</u>
	TOTAL	<u>3,518</u>
III. SUPREME COURT		
SADO removed as counsel, client found not indigent		3
Withdrew as counsel		5
Client withdrew appeal		3
Case dismissed - client missing		3
Appointment vacated		32
Appeal dismissed		8
Prosecutor's leave granted		35
SADO/Prosecutor leave denied		982
Disposition by Supreme Court on plea cases for Court of Appeals		10
SADO leave granted - client retained own counsel		5
Final disposition reached		<u>413</u>
	TOTAL	1,499
IV. UNITED STATES COURTS		
Writ of habeas corpus denied		8
Writ of certiorari by prosecutor granted		3
Writ of certiorari by prosecutor denied		5
Substitute counsel appointed		1
Final disposition reached		<u>5</u>
	TOTAL	<u>22</u>
TOTAL FINAL DISPOSITIONS		<u><u>5,674</u></u>





State of Michigan

STATE APPELLATE DEFENDER

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September 12, 1983

State Court Administrator's Office  
200 Washington Square North  
P. O. Box 30048  
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Attention: Amy Pearson

Attached is the State Appellate Defender Office's Annual Report for 1981/82. If you have any questions or further requirements concerning this report, do not hesitate to contact me.

Very truly yours,

Norris J. Thomas, Jr.  
Chief Deputy Defender

NJT:vm

81/82

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STATE APPELLATE DEFENDER OFFICE

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8/1/82

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