

**1982/1983 ANNUAL REPORT OF THE
STATE APPELLATE DEFENDER OFFICE**

Respectfully submitted by

**STATE APPELLATE DEFENDER OFFICE
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**1982/1983 ANNUAL REPORT OF THE
STATE APPELLATE DEFENDER OFFICE**

History

The State Appellate Defender Office currently operates pursuant to 1978 PA 620 (MCL 780.711 et seq) and continues to be governed by the seven-member State Appellate Defender Commission, which is also charged with overseeing the private appellate assigned counsel roster. The State Appellate Defender Office was established in 1970 to provide competent legal representation in criminal post-conviction matters. It had its genesis in Michigan Supreme Court Administrative Order 1970-1 and has functioned under the auspices of the Supreme Court within the office of the State Court Administrator since its creation.

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. In 82/83 these attorneys and administrators were supported by two (2) research attorneys, ten (10) legal secretaries, an Investigator and Paralegal Assistant, eight (8) Administrative Assistants, two and one-half (2-1/2) clerks, and one (1) receptionist. Approximately fifteen (15) part-time student and post-graduate legal research assistants are employed when funds are available.

Since 1980, paralegal and criminal justice students from Michigan State University, Mercy College, Henry Ford College and other schools have been used to provide paralegal-type assistance to the staff. These students work for credit toward degrees.

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

A specialized unit, designed to handle a high volume of cases, has been able to handle 20% to 30% more cases than a regular attorney unit when the office has received funding to hire law students and post-graduates on a part-time basis to assist the staff attorneys in that unit.

Funding for student assistance or additional attorney positions will be crucial in up-coming years as the appellate assigned

counsel system becomes operational and the State Appellate Defender Office is required to handle at least one (1) out of every four (4) indigent criminal appeals. The State Appellate Defender Office's annual intake is expected to increase under the mandatory assignment provisions of the system. See Administrative Order No. 1981-7, 412 Mich lxv (1982).

Case Activity

The Defender Office is appointed to cases 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.

A State Appellate Defender attorney's work consists of reviewing transcripts and lower court records, interviewing clients, investigating, researching issues, filing all necessary pleadings and conducting hearings and oral arguments.

State Appellate Defender Office attorneys appear 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 and 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.

A. 1981/1982 ACTIVITY

During the previous reporting year (July 1, 1981 - June 30, 1982) 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 appeals).

During the previous fiscal year (October 1, 1981 - September 30, 1982), 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) had not over the previous three (3) years (1, 8, 15, 16, 20, 45 and 52). Ten (10) circuits that did not appoint the State Appellate Defender Office during the 1980/1981 reporting year (7, 9, 12, 14, 19, 22, 33, 34, 44 and 47) did in 1981/1982.

Of the forty-eight (48) assigning authorities, appointing the State Appellate Defender Office during 1981/1982, 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 the 1981/1982 reporting period, the office had a total of 1,283 open, active cases, 820 new assignments had been received, 735 cases closed and a total of 2,018 cases processed.

B. 1982/1983 ACTIVITY

The ten (10) circuits that did not appoint the State Appellate Defender Office during 81/82 continued their past practice in 82/83. Seven (7) of the ten (10) circuits (7, 9, 12, 14, 19, 33, 44) that appointed the State Appellate Defender Office in 81/82 but had not the previous year continue to assign SADO only in extraordinary situations.

During fiscal year 82/83 (October 1, 1982 - September 30, 1983), the office's eighteen (18) staff attorneys and two (2) deputies handled 582 cases, and the Special Unit attorney handled eighty-three (83) (one unit attorney left and was not replaced), for a total of 665 cases. Fifty-seven (57) of those appeals were special assignments (these range from US Supreme Court briefs to responses to prosecutor appeals) 327 were pleas, and 281 were trials.

From July 1, 1982, to June 30, 1983, the office received 725 new assignments. At the close of this reporting period, it had 1,250 open active cases, had closed 831 cases and processed a total of 2,081 cases. A graphic depicting 1982/1983 case activity follows this narrative.

Collateral Services and Special Projects

In addition to the work produced in each case, the Office is involved in several collateral areas and special projects. The Legal Resources Project, in its sixth year, again responded to more than three thousand (3,000) requests for assistance, provided more than fifty thousand (50,000) pages of materials, and reached more than one thousand (1,000) subscribers through the Criminal Defense Newsletter.

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.

The State Appellate Defender Office was heavily involved in the planning of the Criminal Advocacy Program, jointly sponsored by the Wayne County Circuit Court and Detroit Recorder's Court in 1983. The State Appellate Defender Office was instrumental in obtaining a grant for the continuation of the Criminal Advocacy Program from the Michigan Justice Training Commission. At the State Appellate Defender Office's request, the Michigan Justice Training Commission also funded three (3) State Appellate Defender Office sponsored projects -- revision of the State Appellate Defender Office's Practice and Procedure Manual, which will include a separate section on brief writing and advocacy, and the Trial Book started by the Legal Aid and Defender's Office.

Through the efforts of its Special Projects Coordinator, the State Appellate Defender Office nearly completed the automation of its word and data processing systems. Under the direction of the State Appellate Defender Commission, over the next year, the State Appellate Defender Office will design similar systems for the appellate assigned counsel administrator office and attempt to interface them with its own. If full funding is granted to the State Appellate Defender Office and the Assigned Counsel Administrator in the 1983/1984 budget, the entire system (both the Defender and private counsel components) should be operational by the end of 1985.

STATE APPELLATE DEFENDER OFFICE

TOTAL NEW ASSIGNMENTS 7/1/82 to 6/30/83	725	
TOTAL ACTIVE CASES as of 6/30/83	1,250	
TOTAL CASES CLOSED 7/1/82 to 6/30/83	831	

TOTAL CASES PROCESSED 7/1/82 to 6/30/83	2,081	
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LAST ACTION ON CASES OPEN 7/1/82 to 6/30/83

I. TRIAL COURT		
Cases assigned to SADO, no claim filed - transcript not received	77	
Cases assigned to SADO, no claim filed - transcript received	32	
No action fiscal year	15	
Remanded, hearing/decision pending	11	
Motion New Trial with supporting Memorandum of Law	11	
Motion Resentence	11	
Prosecutor appeal - no action fiscal year	10	
Motion Vacate Plea/Conviction/Sentence	4	
Trial court motion denied - Court of Appeals action pending	2	
Prosecutor appeal - brief filed	1	
Motion Dismiss	1	
TOTAL	<u>175</u>	
II. COURT OF APPEALS		
Claim filed - transcript received	225	
Oral Argument had	194	
SADO/Prosecutor briefs filed	136	
SADO brief filed	124	
Claim filed - no transcript	91	
SADO/Prosecutor Motion Rehearing	15	
Remanded for hearing	14	
Motion Remand	12	
Motion Peremptory Reversal	12	
Supplemental brief	10	
Motion Resentence in Trial Court/Court of Appeals action pending	9	
Application Leave/Delayed Appeal/Interlocutory Appeal	8	
Remanded, decision pending (Michigan Supreme Court)	5	
Motion/Stipulation Dismiss pending	5	
Motion Guidance	3	
Held in abeyance	3	
Motion Dismiss/Substitute Counsel	3	
Prosecutor appeal - transcript received	3	
Prosecutor appeal - brief filed	2	
TOTAL	<u>874</u>	
III. SUPREME COURT		
Application for Leave to Appeal with Brief	140	
Leave granted - oral argument had	15	
Application for Leave to Appeal - held in abeyance	14	
Prosecutor Application Leave/Rehearing granted/pending	11	
Leave granted, brief filed	4	
Leave granted, no action this year	3	
Cases assigned to SADO - transcript received	4	
Prosecutor Answer to Show Cause	2	
TOTAL	<u>193</u>	
IV. UNITED STATES COURTS - DISTRICT/APPEALS/SUPREME		
Petition Writ of Habeas Corpus	3	
Motion Dismiss	2	
Petition for Leave to Proceed In Forma Pauperis	2	
Petition Writ of Certiorari	1	
TOTAL	<u>8</u>	

ANNUAL REPORT
STATE APPELLATE DEFENDER OFFICE

ACTIVITY ON CASES CLOSED 7/1/82 to 6/30/83

I. TRIAL COURT		
Substitute counsel appointed/retained		40
Motion Resentence granted/denied		17
Motion New Trial granted/denied		14
Reversed Plea/Sentence/Conviction		13
Motion Vacate Plea/Sentence/Conviction denied		10
Dismissed by motion/stipulation		<u>7</u>
	TOTAL	101
II. COURT OF APPEALS		
Regular disposition		366
Appeal dismissed by stipulation/motion		96
Rehearing denied		17
Application for Delayed Appeal denied		12
Appeal dismissed - client died		<u>2</u>
	TOTAL	493
III. SUPREME COURT		
Leave denied - SADO		158
Leave denied - Prosecutor		29
Reconsideration denied		20
Reversed and remanded		16
Affirmed		8
Appeal dismissed		<u>1</u>
	TOTAL	232
IV. UNITED STATES COURTS - DISTRICT/APPEALS/SUPREME		
Petition for Writ of Certiorari denied		3
Affirmed		<u>2</u>
	TOTAL	5

FILINGS BY SADO 7/1/82 to 6/30/83

COURT	Closed Cases	Open Cases	Reporting Year Total
I. TRIAL COURT	78	126	204
II. COURT OF APPEALS	353	1,471	1,824
III. SUPREME COURT	127	190	317
IV. UNITED STATES COURTS	<u>4</u>	<u>14</u>	<u>18</u>
TOTAL	562	1,801	2,363

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		18
Client missing, no possible action		2
Case dismissed		38
Appeal withdrawn		29
Client released on habeas corpus		1
SADO withdrew as counsel by request/appointed returned		60
Substitute counsel appointed		158
Final disposition reached		<u>358</u>
	TOTAL	<u>736</u>
II. COURT OF APPEALS		
Client retained own counsel		4
Client missing, deceased		13
SADO motion to withdraw as counsel granted		227
Prosecutor's motion to dismiss appeal granted		2
Application for Delayed Appeal denied		62
Confession of error by prosecutor		2
Appeal dismissed as moot		7
Appeal dismissed by motion or stipulation		754
Appeal dismissed for lack of progress		1
Final disposition reached		<u>2,939</u>
	TOTAL	<u>4,011</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		9
Prosecutor's leave granted		36
SADO/Prosecutor leave denied		1,179
Disposition by Supreme Court on plea cases for Court of Appeals		10
SADO leave granted - client retained own counsel		5
Final disposition reached		<u>456</u>
	TOTAL	<u>1,731</u>
IV. UNITED STATES COURTS - DISTRICT/APPEALS/SUPREME		
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>10</u>
	TOTAL	<u>27</u>
	TOTAL FINAL DISPOSITIONS	<u><u>6,505</u></u>

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728
1,203 - 1-6-1
825
1,828

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Motion Dismiss		1
<i>Conflict Package</i>		
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Reversed Plea/Sentence/Conviction
Motion Vacate Plea/Sentence/Conviction denied
Dismissed by motion/stipulation

Handwritten:
10
16
5
11
1
101

TOTAL

II. COURT OF APPEALS

Regular disposition
Appeal dismissed by stipulation/motion
Rehearing denied
Application for Delayed Appeal denied
Appeal dismissed - client died

Handwritten:
217
18
15
1

Handwritten:
10
16
5
11
1
493

TOTAL

III. SUPREME COURT

Leave denied - SADO
Leave denied - Prosecutor
Reconsideration denied
Reversed and remanded
Affirmed
Appeal dismissed - death
Appeal dismissed

Handwritten:
217
18
15
3
268
278

Handwritten:
217
28
15
3
268
4

Handwritten:
158
29
20
17
232

TOTAL

IV. UNITED STATES COURTS - DISTRICT/APPEALS/SUPREME

Petition for Writ of Certiorari denied
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TOTAL

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Handwritten calculations:
 2180
 - 1895

 285 TC filings CA

Handwritten calculations:
 1483 Total w/o briefs or claims
 - 442

 1041

Handwritten calculations:
 1895
 - 442

 1453 CA Filings

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