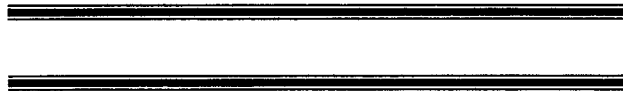


APPELLATE DEFENDER COMMISSION

2000 ANNUAL REPORT

**For the
MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM**

**And the
STATE APPELLATE DEFENDER OFFICE**



2000 APPELLATE DEFENDER COMMISSION

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D. Joseph Olson, Vice Chair
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APPELLATE DEFENDER COMMISSION

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MIDLAND

October 17, 2001

The Appellate Defender Commission is pleased to submit the 2000 Annual Report for the Michigan Appellate Assigned Counsel System and the State Appellate Defender Office.

The Mission of the Appellate Defender Commission is to provide a high-quality, efficient and effective, mixed indigent appellate defense system composed of a state-funded public defender office (State Appellate Defender Office) and a county-funded, assigned counsel panel (Michigan Appellate Assigned Counsel System).

Thank you for the opportunity to submit our 2000 Annual Report. For additional information, please feel free to contact Terence R. Flanagan, Administrator of the Michigan Appellate Assigned Counsel System, James R. Neuhard, Director of the State Appellate Defender Office, or myself.

Sincerely,

A handwritten signature in black ink that reads "D. Joseph Olson".

D. Joseph Olson, Chair 2001
Appellate Defender Commission

MISSION STATEMENTS

APPELLATE DEFENDER COMMISSION: To provide a high-quality, efficient and effective, mixed indigent appellate defense system composed of a state-funded public defender office (State Appellate Defender Office) and a county-funded, assigned counsel panel (Michigan Appellate Assigned Counsel System).

MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM: To compile and maintain a statewide roster of attorneys eligible and willing to accept criminal appellate assignments and to engage in activities designed to enhance the capacity of the private bar to render effective assistance of appellate counsel to indigent defendants.

STATE APPELLATE DEFENDER OFFICE: To provide cost-efficient, high-quality, timely, public appellate defense services to indigent criminal defendants in cases assigned by the courts. As an outgrowth of that representation, SADO provides legal resources and training materials to support private criminal defense practitioners assigned to represent indigent criminal defendants, to enhance the quality and effectiveness of that representation and reduce indigent defense and overall criminal justice costs to State and local governmental units.

MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM GOALS and OBJECTIVES

To ensure that cases are assigned by appropriate methods to qualified lawyers; that these lawyers receive appropriate training and resource materials to enable them to provide effective representation for their clients; and that the lawyers comply with minimum performance standards when representing their clients.

STATE APPELLATE DEFENDER OFFICE GOALS

- Handle no less than 25% of the assigned indigent criminal appeals.
- Provide high-quality, timely services.
- Distribute services to all counties fairly and efficiently.
- Provide support services seasonably and efficiently to all assigned counsel in the state.

OBJECTIVES

- Maintain quality.
- Avoid unnecessary delay.
- Increase efficiency through innovation and automation.
- Implement cost reduction to counties (who pay for all appeals handled by the private bar) by changing formula to accept 50% of the more costly complex Level III cases while maintaining and supporting a mixed system of representation.
- Lower assigned counsel costs by reducing attorneys' need to duplicate work already done by SADO and other contributors, and efficiently supply current legal information to all assigned counsel to reduce errors and reduce the need for appeals.

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HISTORY, STATUTES, STRUCTURE and GOVERNANCE

The Appellate Defender Act, passed by the Michigan Legislature and signed into law by Governor William G. Milliken in 1978, created the Appellate Defender Commission within the office of the State Court Administrator. MCL 780.711 et. seq. The legislation directed the Commission to:

- Develop a system of indigent appellate defense services, which shall include services provided by the State Appellate Defender Offices (SADO). MCL 780.712(4),
- Develop minimum standards to which all indigent criminal appellate defense services shall conform. MCL 780.712(5),
- Compile and keep current a statewide roster of private attorneys willing to accept criminal appellate appointments. MCL 780.712(6), and
- Provide continuing legal education for those private attorneys. MCL 780.712(7)

Pursuant to its statutory charge, the Commission held public hearings around the state regarding the system to be created and the performance standards. The Commission determined that a mixed system of full-time defenders and assigned private attorneys would best serve the long-term interests of the entire system. The Commission promulgated regulations governing the system of appointment of counsel and minimum standards for indigent criminal appellate defense services and submitted them to the Michigan Supreme court for approval. The Supreme Court approved them on December 4, 1981 in Administrative Order 1981-7. 412 Mich lxv, et. seq.

The system has two components: The Michigan Appellate Assigned Counsel System (MAACS), which administers the system, and the State Appellate Defender Office (SADO), the state-funded appellate level public defender office. SADO handles about 25% of the appellate assignments and the other 75% are handled by MAACS roster attorneys who are appointed and paid by the counties.

The Commission consists of seven members, all appointed by the Governor. Six Commission members are recommended for the Governor's appointment: two by the Supreme Court, two by the State Bar, one by the Court of Appeals, and one by the Michigan Judges Association. The seventh member is a non-lawyer selected by the Governor. The Commission members in 2000 were: John E. S. Scott (Chairperson), State Bar Designee; D. Joseph Olson (Vice-Chair), Supreme Court Designee; Allan Falk, Court of Appeals Designee; Hon. Samuel Gardner, State Bar Designee; Bethany Goodman, Governor's Designee; Joseph P. Overton, Supreme Court Designee; and Hon. Kenneth N. Sanborn, Michigan Judges Association Designee. Mr. Olson is the Chairperson in 2001.

MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

Although implementation was delayed a few years by funding constraints, MAACS began to administer the appellate assignment process and maintain the roster of attorneys eligible for assignments in 1985. MAACS is charged with ensuring that cases are assigned by

appropriate methods to qualified lawyers, that these lawyers received appropriate training and resource materials, and that they comply with minimum performance standards when representing assigned appellate clients. It is also directed "to engage in activities designed to enhance the capacity of the private bar to render effective assistance of appellate counsel to indigent defendants." MAACS Reg. 1(1)

The offices of MAACS are: Plaza One – Suite 1, 401 South Washington Avenue, Lansing, MI 48913. The MAACS Administrator is Terence R. Flanagan; Deputy Administrator is Thomas M. Harp; and Associate Administrator is Priscilla Cheever.

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). After receiving the grant, the Supreme Court issued Administrative Order 1970-1, formally establishing the Appellate Defender Commission and charging it with the duty to provide high-quality, cost-efficient legal representation to indigent criminal defendants in post-conviction matters. In 1979, the Appellate Defender Act, 1978 PA 620 formally established the office. MCL 780.711 et seq.

The enabling legislation specifically limits SADO to criminal, post-conviction cases to which it is appointed by a court. It cannot voluntarily accept cases, nor handle civil cases or sue the Department of Corrections.

The Appellate Defender Commission regulates the allocation of assignments between SADO and private, assigned, appellate attorneys by adjusting SADO's case intake based on its resources, the assignment rate, and the projected number of appeals for the fiscal year. The Appellate Defender Act requires that SADO receive no less than 25% of all indigent criminal appeals, but limits the total intake by adding 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 legislature. MCL 780.716(c). Administrative Order 1989-3 mandates that all circuit courts comply with Section 3 of the regulations regarding appointing counsel on appeal.

The principal office of SADO is at 645 Griswold, Suite 3300, Detroit, MI 48226 with a branch office located in Lansing, Michigan. In addition, the office runs criminal appellate practice clinics at the University of Michigan Law School and Wayne State Law School.

SADO's Criminal Defense Resource Center, formerly known as The Legal Resources Project (LRP), began in 1977. It is located in SADO's Detroit office and provides a brief bank, newsletters, motion manuals, trial and sentencing books, recent case summaries, direct training events, complete on-line web services, phone and legal information support for its staff attorneys and several thousand assigned counsel throughout the state.

SADO Director James R. Neuhard, Chief Deputy Defender Norris J. Thomas, Jr., and the Criminal Defense Resource Center Director Dawn Van Hoek are in the Detroit office. F. Martin Tieber is the Deputy Defender in the Lansing office.

THE 2000 ANNUAL REPORT OF THE MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

INTRODUCTION

The administrative design has three primary components. First, MAACS maintains the statewide roster of attorneys eligible and willing to receive assignments. Second, MAACS oversees the assignment process, ensuring that cases are appropriately matched to qualified lawyers and that they are correctly distributed between roster attorneys and SADO. Third, MAACS attempts to improve the quality of representation by providing roster attorneys with training and other forms of assistance, and by resolving complaints about noncompliance with the Minimum Standards. MAACS also performs numerous other ancillary tasks.

The MAACS staff currently consists of 10 people (see Appendices A, page 1a & B, pages 2a and 3a, "MAACS Organizational Chart" and "Position Descriptions"). Eight are full-time salaried employees (FTEs) and two are part-time contract employees:

- The administrator, deputy administrator¹ and associate administrator, all of whom are experienced appellate attorneys.
- Five full-time support personnel (a roster manager, an administrative assistant/office manager, an assignment coordinator, a systems/financial manager and a legal secretary)
- A part-time paralegal, and
- A part-time file clerk.

DEVELOPMENTS

1. **Maintaining the Roster.** Attorneys who wish to receive appellate assignments file an application to join the statewide roster with MAACS. The applicants specify the circuits from which they want appointments. With certain limited exceptions, attorneys may obtain appointments from any circuit in the state.

MAACS classifies roster attorneys into three eligibility levels, depending on their qualifications. Reg. 4(2). Level I attorneys are restricted to the simpler types of cases and those with lower maximum sentences. Only Level III attorneys can be assigned to jury trials for life maximum offenses. Entry level attorneys must complete a two-day orientation program. All roster attorneys are required to complete seven hours of relevant CLE each year. Those who

¹ The deputy administrator position was vacant from July 8, 1999 until it was filled on March 17, 2000, some eight months later. The vacancy occurred when the prior administrator resigned and the former deputy administrator was promoted to the administrator's position.

seek reclassification to a higher level must meet experience requirements and submit samples of their work for evaluation.

From the statewide roster, MAACS breaks out local lists containing the names of roster members who want to receive assignments from each circuit. Attorneys advise MAACS when they wish to join or leave local lists, as well as when their addresses or phone numbers change. MAACS notifies the trial courts of all changes to their respective local lists.

As of December 31, 2000, there were 278 attorneys on the statewide roster:

157 at Level I
69 at Level II
52 at Level III

In 2000, 12 attorneys were added to the roster and 32 left.

2. Coordinating Assignments.

a. Methods

While the statute specifies that appellate counsel are to be appointed by the trial courts, the MAACS Regulations require nonjudicial personnel to select the lawyer to be appointed according to standardized procedures. The "local designating authority" (LDA) is the person in each circuit court who is designated the responsibility for preparing the orders of appointment. An eligible attorney may be passed over only for specified causes, such as a conflict of interest or the fact that another eligible attorney is already representing the defendant on an active appeal. The name of the appointed attorney drops to the bottom of the list. SADO is slotted into the rotation in a specified sequence.² SADO may also be selected out-of-sequence for appointment in unusually large or complex cases.

For years MAACS ensured compliance with the assignment process through a cumbersome manual mechanism. That is, the trial court LDAs supplied MAACS with monthly log sheets that tracked the process by which lawyers were selected. MAACS then reviewed the log sheets for compliance with its Regulations and rotated the list of attorney names to reflect the assignments that had been made. MAACS then returned the log sheets to the LDAs for use in the next month.

The assignment system has since been greatly streamlined by means of an on-line appointment system. This new system began in the fall of 1999 with a pilot project involving three large circuits (Wayne, Oakland and Genesee). After a few months were spent refining the system, MAACS began to add additional circuits throughout 2000. By December 31, 2000, 55 of the state's 57 circuits were participating.

² MAACS Regulation 2(2)(d)(i) requires that the Commission annually determine the formula for assigning cases to SADO based on the number of appeals for each level and type and the total number SADO is funded to accept. The Commission's current formula is that SADO receive: 20% of Level I cases; 25% of Level II cases; and 50% of Level III cases.

This new system has significantly simplified and improved the appointment process. Trial court LDAs now can prepare orders of appointment by getting directly on-line to MAACS. Once basic information is entered in response to prompts, the computer rotates the circuit's local list and presents the correct name for appointment. The LDA then prints the order at the trial court's end, obtain a judge's signature, and distributes copies. Since the trial courts no longer are able to make selection errors, the need to monitor the rotation of assignments by exchanging log sheets has been eliminated. If something unique about a case requires it, the automated selection process can be overridden by MAACS.

The increased automation has created substantial efficiencies for MAACS as well. Since attorney address, telephone, and level changes are accessible to the trial courts through MAACS' database, the large amounts of time, paper, and postage currently expended to share this information can be saved. Even more importantly, MAACS opens manual and computer files on every assignment. Data that MAACS previously posted to its computer after receiving hard copies of the orders of appointment now enter the database when the orders are created.

The conversion from a manual to an on-line system has been well received by our end users, the circuit courts. Not one complaint has been received and many representatives of the circuits have praised the system for its efficiencies. A sampling of the responses MAACS has received include:

"I am very pleased with the entire program. Judy Miller assisted me with my first order and was very helpful. Also the printed instruction manual has been well prepared. The on-line program is a real time-saver and ensures accuracy regarding appointments. The small investment our county made in the purchase of an external modem and the PC Anywhere software, was well worth it. My thanks to you and your staff for your time and efforts in developing and implementing this program." LDA, 36th Circuit (VanBuren)

* * *

"The new system is wonderful. I really like it. Thank you so much for all your individual attention." LDA 48th Circuit (Allegan)

* * *

"The on-line system is great. I have been anxious to do my first assignment so I could try it. Now I can't wait to get another one. And, unlike most manuals, MAACS' is very user friendly." LDA 57th Circuit (Emmett)

b. Statistics

In 2000, appellate counsel was assigned in 3396 cases (each original order is counted as one case, regardless of subsequent substitutions of counsel). This figure represents a 1%

increase over the 3362 assignments in 1999.³ Of the total, 922 cases (27.2%) were assigned to SADO.

The distribution of assignments by case type and level appears in the following chart.⁴ Level I includes appeals from plea-based convictions with statutory maximum sentences up to 10 years and from trial-based convictions with maximum sentences up to 5 years. Level II includes plea appeals with maximum sentences over 10 years and trial appeals with sentences between 5 and 15 years. Level III includes appeals from trial-based convictions with statutory maximums over 15 years. The "plea" category includes probation violation hearings and resentencings.

2000 APPELLATE ASSIGNMENTS

	Total No. Percent of <u>Grand Total</u>	SADO No. Percent of <u>SADO Total</u>	SADO Percent of Total <u>Case Type</u>
Level I Total	1284 37.8%	286 31.0%	22.3%
Level II Total	1560 45.9%	386 41.9%	24.7%
Level III Total	536 15.8%	245 26.6%	45.7%
<hr/>			
GRAND TOTAL	3396	922	27.2%

3. Improving Attorney Performance. MAACS uses three methods to improve the quality of representation roster attorneys provide to their indigent clients. It provides training programs, reference materials, and update memos, as well as one-on-one assistance in individual cases. It reviews in-depth the work of each attorney seeking to be classified at Level II or III. It resolves allegations that roster members have violated the Minimum Standards.

a. Training

In 2000 MAACS produced two reference manuals through grants funded by the Michigan Justice Training Commission:

³ A chart summarizing the annual assignments from 1986 - 2000, including SADO's numbers and percentages, is attached as Appendix C, page 4a.

⁴ A more complete chart for 2000 appellate assignments, which includes breakdowns for case types at each level, is attached as Appendix D, page 5a. Another chart, which lists the 2000 assignments for each circuit court by case level and type, is attached as Appendix E, pages 6a-16a. Michigan Justice Training Commission.

- Defense Attorneys and the Michigan Department of Corrections (2000).

This handbook clarified for both lawyers and MDOC personnel the rules that govern telephone conversations, in-person interviews, and correspondence with prison inmates. It also contains practical information necessary to locate clients, correctional facilities, and selected institutional staff. Copies were provided to all institutions and camps, and to all attorneys who handle assigned appeals.

- Issue Spotting for Michigan Criminal Appeals (Second Edition, 2000)

This manual, authored by SADO Assistant Defender Peter Van Hoek, was designed to assist appellate attorneys in one of the most critical aspects of handling an appeal—identifying the potential issues in the case. This skill is the foundation upon which all of the other functions of appellate counsel must build, since without effective identification of the issues the appeal is doomed to failure from the start.

MAACS also conveys information in less formal ways. It periodically sends memos to the entire roster explaining the impact of court rule changes, major appellate decisions, and Michigan Department of Corrections policies that affect attorney/client communication. Five such memos were distributed in 2000. The administrators also routinely field telephone inquiries from roster members about a wide range of subjects.

b. Classification Reviews

An attorney wishing to be classified at Level II or III must undergo an in-depth performance review. A sampling of briefs is read in conjunction with the prosecution reply briefs and appellate opinions. Issue analysis, writing skills, and legal knowledge are assessed, and written feedback is given to the lawyer. Fee vouchers and Court of Appeals records are checked for any indication of problems, such as late filings, failures to conduct prison visits, or an excessive number of motions to withdraw as counsel.

During 2000 two roster attorneys sought to be reclassified to the next level—one from Level I - II and the other from Level II - III. Both attorneys had completed the requisite number of appeals within the previous three years, per Reg. 4(2)—9 for Level II and 18 for Level III. After the review was conducted, both requests were approved.

Seven non-roster attorneys also asked to join the roster at Level II or III under the "exceptional circumstances" provision of Reg. 4(3). This regulation permits the Commission to waive the normal requirements if it "determines that an applicant has acquired comparable experience". MAACS reviewed their applications and recommended that all but one of the requests be granted. The Commission decided:

- To permit three attorneys to joint at the level they requested, per MAACS' recommendation;

- To permit three others to join at one level below what they requested, with the proviso that they could advance to the requested level upon satisfactorily completing three assignments; and
- To deny one attorney's request to join at either Level II or III, per MAACS' recommendation.

c. Enforcement of Minimum Standards

The second, far more time-consuming method of performance evaluation involves the processing of complaints. MAACS receives several hundred letters each year, primarily from defendants, regarding the conduct of roster members. While upon examination many of these do not state facts that indicate a violation of the Minimum Standards may have occurred, about 30% require MAACS to contact the lawyer. Action may range from a letter warning counsel to write the client promptly to the initiation of a formal complaint. Where appropriate, problems may be resolved without a formal complaint, as when the attorney has already resigned or been removed from the roster, but the defendant needs substitute counsel appointed or forms to file a Supreme Court application.

When a formal complaint is issued, the lawyer is asked to respond to the allegation that specific Minimum Standards have been violated. The client is given the opportunity to respond to any answer the attorney provides. MAACS conducts any independent investigation that may be necessary, then determines whether a substantial violation of the Standards has occurred.

In 2000, MAACS resolved 34 formal complaints involving 21 different roster attorneys. Nine of the attorneys are no longer on the roster, including one attorney (the subject of 13 of the complaints) who resigned under investigation. In 91% of the cases (31 of 34), MAACS found violations of the Minimum Standards. Although the nature of these violations varies widely, by far the most common were failures to process appeals in a timely manner, failures to interview clients before filing briefs, and failures to keep clients apprised of what was happening with their cases. Depending on the circumstances, a finding that the Standards have been violated may have consequences ranging from a warning to substituting new counsel. MAACS requested the appointment of substitute counsel in 15 of these 31 complaints where violations were found and the various trial courts granted all the requests.

4. Other Activities. Because of its central position in a network that includes the trial and appellate courts, roster attorneys, SADO, and defendants, MAACS is able to perform a number of other functions important to the ultimate goal of providing high quality indigent appellate defense. In 2000, MAACS continued to perform these functions:

- a. It responded to defendant inquiries about counsel requests that had not been processed by the trial court. In numerous cases where the request was misfiled or overlooked, MAACS' intervention prompted the appointment of counsel.
- b. It provided form pleading packets to defendants who wanted to appeal a trial court's denial of a request for appellate counsel.

c. It collected, analyzed and disseminated annual data, not available from other sources, about the volume and type of appellate assignments, and their distribution to roster attorneys and SADO.

d. It responded to hundreds of inquiries from defendants and their families seeking information about postconviction remedies or assistance with problems outside MAACS' bailiwick.

e. It compiled information about appellate assigned counsel fees, attempted to promote the payment of reasonable fees, and urged the Department of Management & Budget to have the state assume some or all of the costs of indigent appellate defense.

f. It served as a spokesperson for the interests of roster attorneys and their clients in various forums and by various methods. For instance, MAACS provided comments on proposed court rules, testified at Supreme Court public hearings regarding those proposals, resolved administrative concerns with the Department of Corrections, and testified before legislative committees. The administrator and deputy administrator also served on numerous committees, commissions, boards, and task forces.

THE 2000 ANNUAL REPORT OF THE STATE APPELLATE DEFENDER OFFICE

Over the years, two of the most important functions of the Appellate Defender Commission have been balancing SADO's workload with its funding and allocating the caseload and workload between SADO and the roster attorneys in the Michigan Assigned Counsel System (MAACS). MAACS creates and manages the list of private attorneys accepting indigent criminal appellate assignments. Together, MAACS and SADO attorneys handle 100% of the assigned appeals for the State of Michigan.

The balancing and distribution of the workload of SADO and between SADO and private assigned counsel is necessary due to the over-assignment of cases to SADO; staffing increases not keeping pace with the workload, and uneven distribution of attorneys willing and qualified to handle the more time-consuming and less remunerative Level III appeals.

To address these issues, the Commission has employed several strategies attempting to meet the timing and quality demands of the Courts, the resources of SADO, the needs of the counties and the distribution and availability of qualified appellate counsel willing to accept appointments.

The number of assigned criminal appeals rapidly grew from the low 2,000's in the early 1980's to over 6,400 in 1993. This growth placed enormous strain on the entire appellate system – courts, court reporters, prosecution as well as the defense. During this period of growth, the state faced numerous budget crises and budget cuts. In addition, SADO's budget was reduced on several occasions. The final stress on the Office came from the significant reduction in time or elimination of motions to extend time to file the appellant's brief. Failure to file timely resulted in potential dismissal of the client's appeal and personal fines on the attorneys handling the cases.

These pressures forced the Commission to reduce SADO's case intake pursuant to its statutory mandate to "[MCL] 780.716 ... (c) Accept only that number of assignments and maintain a caseload which will insure quality criminal defense services consistent with the funds appropriated by the state." To match the caseload with the appropriations, the Commission periodically, as necessary, closed the office to new assignments for a month or more at a time. While this method reduced the assignments in gross over a year period, it failed to offer predictability to the counties and circuits, and unevenly broke the assignments. Because of the unevenness and the chronic overload, the Commission reduced the SADO percentage of cases from 25% to approximately 17% in the early 1990's.

After the caseload peaked in 1993 and began to fall, SADO began to increase its capacity through the use of automation and the conversion of support positions into attorney positions, and by 1996 had eliminated its backlog. Subsequently, the Commission first returned SADO to its 25% share of the appeals and, after reviewing the system's needs, ultimately changed the formula from a flat 25% of all assignments to 50% of the Level III, 25% of the Level II and 20% of the Level I appeals. This new formula better met what the Commission perceived to be the needs of the system at that time and the resources of SADO and MAACS.

CHANGE IN THE MIX OF CASES ASSIGNED TO SADO

In February 1999, the Appellate Defender Commission (ADC) increased SADO's Level III⁵ appeals to 50%. This new formula was paced in over 1999 and 2000. Initially, only circuits using the Michigan Appellate Assigned Counsel System (MAACS) on-line assignment system used the new formula, but by the end of 2000, the formula had been fully implemented.

Table III, page 25a, shows the percentages and number of Level III cases assigned to SADO since 1994. Even before the formula was changed in 1999, SADO consistently received well over 25% of these cases. Even when SADO's overall percentage of appeals had been reduced to 17% up until 1998, it often received over 38% of the Level III cases; two times the number it should have been assigned if the counties had strictly rotated the list. This practical reality drove the decision to change the formula to reflect the use and needs of the system.

ASSIGNMENT LEVELS

As part of its task in balancing the workload to SADO capacity, the ADC closed SADO for the last two months of calendar 1999 (the second and third months of the fiscal year 99/2000), and accepted only emergency cases. This was in response to the 20% budget cut that took effect at the start of the new fiscal year on October 1, 1999. Therefore, much of 2000 was spent coping with the 20% loss of staff and gaining experience with the impact of not only the caseload but the workload of the increase in the longer, more time-consuming Level III appeals. In addition, there was time spent ironing out the implementation the new MAACS on-line, assignment system that rotates the list and regulates the case flow of all assigned criminal appeals to both SADO and MAACS attorneys.

In January 2000, SADO opened again to new assignments. At the start of the year, the MAACS automated assignment system over-assigned SADO in an attempt to "balance" the assignments due to SADO's closure in November and December. Therefore, during January and February, the computer over assigned SADO to "catch up" to 25% of the annual assignments for the under assignments of the preceding November and December. After adjustments were made to the program, SADO settled into a regular rhythm of assignments. By the close of 2000, according to the MAACS annual report, SADO had received 922 assignments. It had received 22.3% of Level I; 24.7% of Level II, and 45.7% of Level III. The assignment formula is currently 20% of Level I, 25% of Level II and 50% of Level III.⁶

⁵ Level III appeals are jury trials with sentences of 15 years or more and tend to be the longer, more complex and more costly appellate assignments.

⁶ MAACS total assignment numbers vary from those of SADO. MAACS counts one order of appointment only once, even if more than one lawyer may have been appointed to handle the appeal, and regardless of the amount of work performed by either lawyer. So while SADO does not exclude cases it is substituted out of from its total count, MAACS does.

Changing the mix to 50% of the Level III appeals and lowering the percentage of Level I appeals to 20% has met to date the demonstrated needs of the counties and more fairly allowed all counties to use the state-funded resource. Unfortunately, if the caseload/workload continues or increases at the final levels achieved under the new formula, the budget reductions and eventual loss of production capacity incurred in 2000 will necessitate either future budget and staff increases or caseload or workload reduction.

SADO STAFFING AND DIRECT CLIENT SERVICES

SADO is committed to providing high-quality, efficient defense services to its clients. SADO attorneys obtain all transcripts and court records and review them for appealable issues. They then visit and interview clients at the 60-odd Michigan prison facilities and all the county jails around the state. Attorneys litigate cases at all levels of the Michigan and federal courts. They investigate facts, research, analyze and write legal issues, file appropriate pleadings, conduct post-conviction hearings and present oral arguments in state and federal courts, handling many of landmark, high-profile, and complex cases.

By the end of 1998, the Director, Chief Deputy Director, 24 Assistant Defenders and the Legal Resources Project Director were housed in the Detroit (main) office, and the Deputy Director, Special Unit Director and four (4) Assistant Defenders were located in the Lansing office. Two Paralegals/Secretaries, 8 Legal Secretaries, the Chief Investigator and her Paralegal/Investigator Assistant directly supported the legal staff. The Office Managers in the Detroit and Lansing offices, the Financial Analyst, the Computer Systems Manager, Administrative Assistants, Clerks and Receptionist assisted the administration and provided secondary support to the legal staff.

Two SADO lawyers were housed and received secretarial/clerical and legal research support from the University of Michigan while teaching the Criminal Appellate Practice Course. Another taught the other SADO-established Criminal Appellate Practice Course at the Wayne State University Law School. These courses enjoy excellent reputations among both students and faculty, provide excellent client representation and often provide future SADO lawyers.

By the end of 1999, SADO's Detroit staff was reduced to 18 Assistant Defenders. The office lost (without replacing) Two Paralegal/Secretaries and One Legal Secretary. The Legal Resources Project lost two contract attorneys and an Administrative Assistant. The Director, Chief Deputy Director, Financial Analyst, and Computer Systems Manager and Investigator all shared a single support person, who also served as office manager and human resources specialist.

PRODUCTIVITY

In 2000, SADO Assistant and Deputy Defenders were assigned 957 cases and produced some 2,546 filings, 810 of which were opening pleadings (Brief on Appeal or Motion for New Trial with a supporting brief). (See Table I, page 23a.)

The Unit Director and three attorneys in SADO's Special Unit for Pleas and Early Releases continue to expeditiously handle non-trial-based (mostly plea) appeals. Although Proposal B and subsequent legislation limiting the right to counsel to appeal guilty pleas and the sentences for poor people has dramatically reduced the number of guilty plea appeals reaching the Court of Appeals, those cases have been diverted to trial court dockets and there was very little reduction in the total number of assigned guilty plea appeals.

Guilty plea appeals have remained relatively constant in numbers and as a percentage of the total assignments for the past decade. This is true in spite of the passage of proposal B which converted pleas from appeals of right to appeals by leave and in spite of legislation that attempted to reduce the number of pleas appealed with counsel. As shown in Table III, page 25a, in 2000, SADO was assigned 577 (53.5% of all SADO assignments) guilty plea appeals in 1993 and almost the same number and percentage, 532 (52%), in 1994, prior to Proposal B. SADO received an almost equal number in the following two years, 539 (58% of the total assignments made to SADO) in 1997, 618 (60%) in 1998. Pleas dropped to 462 (54%) in 1999 due to the office closing to all new assignments for 2 months because of the 20% budget cut and loss of staff.⁷ They again rose to 587, (59%) in 2000 of all SADO assignments.

PLEA UNIT

Because of the large number of pleas assigned to the office, SADO developed a special unit to process guilty plea appeals and cases that had short sentences where early action was required to avoid loss of potential sentencing relief. This differential case management allows the Unit attorneys to handle over 300% more clients and cases than undifferentiated caseloads. This in turn allows the office to increase its case-handling average to over 44 cases per staff attorney in 2000 (see Table 1, page 23a)

The unit increases its efficiency not only through specialization, but also with increased client confidence in the judgement of the attorneys on the merit and risk/benefits that the client may face in the appeal. After a unit attorney reviews the entire file and conducts preliminary research they consult with and advise the client. As a result of this preparation, the Special Unit clients voluntarily dismiss between 38% to 42% of their cases.⁸ The Unit's overall relief rate⁹ exceeds 32%, with a relief rate of over 75% in the cases taken to hearings in the trial courts. In 1996 and 1997 the four Unit attorneys handled 79% and 85% respectively of the plea appeals assigned to SADO attorneys. The percentage was 78% in 1998 and remained at 78% in 1999, but at the substantially reduced 1999 guilty plea appeal intake number (from 612 to 462), due to the office closure. There are now only three attorneys in the special unit due to the budget reductions and the increase in Level III trials.

⁷ Numbers differ from those in previous reports because of technical corrections.

⁸ This percentage is quite significant, because voluntary dismissals markedly reduce work for the courts and prosecutors, since no pleadings are filed and, therefore, no oral argument or opinions are required.

⁹ On cases where relief is sought (excludes dismissals).

INCREASED INNOVATION, INTERNAL EFFICIENCY AND CASE MONITORING

Beginning in 1978, over the ensuing years through a series of grants and internal cost savings, SADO became one of the most automated law offices in America. Starting in 1980, the office automated brief production and management information systems. It now has automated its case-tracking system integrated it into its word processing software. In addition, it has automated its brief bank and publications and houses an award winning website. The entire staff is highly proficient on computers, and assigned counsel from all parts of the state are permitted electronic access to all its legal resource materials. This has allowed the office to convert typing and clerical positions to staff attorney positions, increase office production, even at times the budget remained static or decreased, and reduced costs paid to private counsel by their use of materials produced by SADO and available to them at its web site.

INNOVATION AND AUTOMATION

As part of its continuing effort to provide high-quality, cost-efficient representation, in 1999 SADO created additional special work teams. Composed of four or five staff attorneys and one paralegal, the attorneys do virtually all of their word-processing and most other tasks formerly done by legal secretaries. In exchange, the paralegal assists the lawyers on a much broader range of activities than they would receive from a regular legal secretary.

CASE MONITORING - PRODUCTIVITY

Over the last three years, SADO has gone from a very good case-weighting system (probably the first appellate defender office in the nation to do so) for determining appropriate attorney and office workloads, to a sophisticated, automated system of case-weighting, monitoring and supervision. Computer-generated reports now show the precise overall position of the office and the individual attorney caseloads at chosen intervals, permitting regulation of the workload and workflow and assuring that deadlines are met.

In 1997, the office completed its third generation case-related management information system (MIS). The DOS-based compliant database was overhauled and upgraded to a Y2K compliant windows-based, Client/Server system. SADO employed additional contractual staff on a per-project basis to assist the in-house Information Services team in designing and implementing the new system. The new Windows-based system is user-friendly and intuitive, helping SADO reduce its training requirements and improve productivity. The system uses selection lists wherever possible. These lists allow all SADO staff to update selected fields while maintaining database accuracy. The open-system, Client/Server design of the new case management system allows access to data from many applications, such as a traditional database utilities, Web Pages, E-Mail applications, and MS Word. This is the first phase of a two-phase project that will streamline SADO's business applications.

Starting in 1999, the second phase streamlined SADO's business applications. The system converts existing boilerplates to templates (codes and all), creates master templates for all legal documents, merges templates with case management data from a live database, utilizes a familiar intuitive interface, and reduces overall training requirements. By 2000's end, the staff had their computers upgraded and had moved to using the new system.

COLLATERAL ATTORNEY SERVICES AND ACTIVITIES

As has historically been the case, SADO attorneys are expected to and continued in 2000 to again serve as officers on boards and commissions, members of sections and committees of many national, state and local bar organizations and task forces, on the Legislative Sentencing Guidelines Commission, the Michigan Justice Training Commission, legislative workgroups, committees of the Michigan and American Bar Associations, and National Legal Aid and Defender Association. Office attorneys have testified before Michigan and Federal legislative committees and served on committees for the Attorney General of the United States, taught classes in virtually all of the Michigan law schools and served as faculty for many legal and cross-professional seminars and conferences. They taught criminal law and procedure to law students, high school students, paralegals and prisoners. Some wrote practice and procedure manuals for both the bench and bar. Some volunteered to mentor pre-law and law students. Many were deeply involved in civic and community-based activities.

2000 GOALS AND OBJECTIVES

Absorb 20% Staff Reduction and Accept and Timely Process 50% of the Level III Appeals and 25% of the Total Assigned Appeals

SADO's principal goal at the start of 2000 was to absorb the impact of the 20% loss of staff due to the budget cut and review and adjust the distribution of appeals between SADO and MAACS roster attorneys. Early in 1998, SADO had eliminated its backlog and had achieved an intake of 25% of all the cases and over 35% of the Level III appeals, which are more lengthy and usually more difficult and time-consuming than Levels I and II. While SADO should have received a strict 25% of Levels I, II and III, it was clear that many counties were over-assigning Level III appeals to SADO. The main reasons were: 1) SADO was "free" to the counties which had to pay private attorneys to handle appeals, so they assigned SADO more than the formula allowed; 2) fees were abysmally low for handling the more difficult Level III appeals and fewer attorneys would sign up on the lists of counties paying the worst fees; and finally 3) the distribution of attorneys willing to accept Level III appeals was uneven across the state.

The new formula of 50% of Level III, 25% of Level II and 20% of Level I cases compensated for this pattern of use. This new formula gave all counties fairer use of the state-funded resource. In addition, it made the Court of Appeals docket more timely by having the full-time SADO staff handle more of the time-consuming and complex appeals. There were fewer attorney substitutions and withdrawals. Nearly 14% of SADO's assignments in 2000 were substitution of SADO for lawyers who withdrew or were removed for failure to prosecute appeals. (Table IV)

However, even though still understaffed and under funded due to budget cuts, as in past years, SADO was not removed from any case for want of prosecution under MCR 7.217(A) in 2000. This percentage was due to the formula taking effect halfway through the year and not all counties being on-line.

At the May 1999 meeting of the ADC, the Commission adopted the new formula of 50% Level III, 25% of Level II and 20% of Level I cases. At the same time, the Michigan Appellate Assigned Counsel System implemented a web-based method for selecting and appointing assigned counsel. MAACS determined that the automated counties would be the first to use the new Level III and Level I percentages. The formula could be changed in the computer and SADO's appointments would be generated automatically along with the private bar's appointments. By the end of 2000, all but two circuits were either on-line or notifying MAACS of the need for an appointment and MAACS was generating the order of appointment. The percentage of appointments for 2000 reflect the gradual ramping up to the new formula.

For all of 2000, SADO accepted 45.7% of the Level III cases. This percentage was due to the formula taking effect halfway through the year and not all counties being on-line.

CRIMINAL DEFENSE RESOURCE CENTER SERVICES 2000

OVERVIEW AND GOALS ACHIEVED

PRIMARY GOAL: INCREASE QUANTITY OF SUPPORT TO THE PRIVATE BAR AND INCREASE ACCESS TO SERVICES WITH THE INTERNET.

The year 2000 marked the twenty-fourth year the Legal Resources Project (LRP) has served Michigan's criminal defense community with services essential to the competent practice of criminal law in Michigan. During the year, the LRP changed its name to the Criminal Defense Resource Center (CDRC), a change which reflects the scope and permanency of support services provided. The CDRC's objectives for the year remained to deliver core services through traditional means, expand their delivery through web-based means, and directly train criminal defense attorneys on the resources available to them. Core services included publication of a monthly newsletter, trial and sentencing books, summaries of appellate decisions, maintenance of a research database which includes a brief bank, and provision of legal advice to attorneys across the state. The year also saw development of a new resource slated for release in 2001; the Defender Motions Book will join the Trial and Sentencing Books as part of the set of essential practice manuals.

Providing those services remained particularly challenging this year in light of significant budgetary cutbacks experienced by SADO in the previous budgetary cycle. CDRC staff remained significantly reduced, down by one clerical position, and two research attorney positions. Those staff reductions led to cessation of a very valuable service, the provision of legal advice by phone and e-mail to attorneys across the state. While previously the CDRC responded to an average of 12 calls daily from attorneys seeking information or advice, the service was eliminated completely in October of 1999. Loss of this service was acutely disturbing to the hundreds of attorneys who have used it during the twenty-three years it has been provided. Many continued to write or call, expressing their frustration, and citing their inability to go anywhere else for this type of direct support.

Due to loss of staffing, the newsletter was published on a less-than monthly basis (nine times during the year), and less legal research for publications was performed. Loss of staff also meant more work for the staff which remained, as all assumed some of the responsibilities which were part of the eliminated positions.

With elimination of the direct support service provided by CDRC research attorneys, it remained even more important in 2000 to maintain a content-rich and easy-to-navigate web site. Significant efforts continued during the year to increase the contents of online databases which could be accessed over the web, to promote use among attorneys of the online discussion group (the SADO Forum), and train as many attorneys as possible on use of online resources. The advantages of web-delivered services are many, including access at all times, from any location, for unlimited lengths of time. Many attorneys find that research needs are well-met by their own "browsing" or "searching" of the SADO databases. Such online access is very cost-effective, and serves the CDRC goals of: (1) improving the quality

of criminal defense representation, (2) reducing the possibility of errors and need for appeals, and (3) reducing costs for the state and counties by reducing the hours of research for which appointed appellate counsel might otherwise submit a bill.

CDRC operations were once again funded through a combination of SADO budgetary support, user fees, and grants from both the Michigan Justice Training Commission and the Michigan State Bar Foundation. User fees supported a portion of the costs of books, newsletters, copying, and operation of the SADO web site. Grants from the MJTC supported a portion of the costs of books and direct training events; a grant from the Michigan State Bar Foundation supported development of online video training and teleconferencing, and direct training events.

SERVICES DELIVERED BY MAIL AND PHONE

During the report period, the CDRC provided the following services by mail and phone:

- (1) **Criminal Defense Newsletter.** This near-monthly newsletter (nine issues published) delivered an average thirty pages of essential information to approximately 1,000 subscribers. Fewer issues were again published this year, due to staff reductions [twelve issues were published in years of full staffing]. Each issue contains 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. An annual index issue provides a comprehensive listing of issues covered during the year.
- (2) **Summaries of Appellate Decisions.** Twice a month, approximately 85 subscribers to the CDRC's summaries service received summaries of the most recent appellate decisions (Michigan Court of Appeals, Supreme Court, Sixth Circuit Court of Appeals and United States Supreme Court). Summaries of over 800 decisions were mailed to subscribers during 2000. The number of appellate summary subscribers receiving mailed hard copy continues to steadily decline (150 last year), as more subscribers opt to receive summaries via e-mail.
- (3) **Defender Trial, Sentencing and Post-Conviction Books.** 3000 sets of the popular books were printed for distribution to criminal defense attorneys, judges, inmates, law libraries and other criminal justice system participants. Over 1600 pages of relevant information was delivered to users, covering developments through December of 1999. These two annually-updated looseleaf books contain well-organized summaries of the law on all aspects of criminal law and procedure, from arrest through appeal. Summaries and analysis of case law, statutes, court rules and legal practice are included. Users also receive a diskette version of the books, along with full text of any unpublished Court of Appeals decisions cited in them; the books are installed

on a user's own computer and bundled with a powerful search program which allows full text search and retrieval of useful information. Asked in 2000 about how frequently they use the books, 11% of the trainees said daily, 62% said weekly, 23% said monthly and 4% said less than monthly. These results reflect heavy use, as in prior years. Approximately 74% said they use the books to browse a topic to learn the law, 83% used them to quickly identify a case, rule or statute, and 84% used them to browse a topic to refresh their memories. Many indicated that the books provide a useful starting point in research. Asked about the value of the books to their practices, 72% said they were indispensable, 28% said they were helpful and none said they were of minimal value. Many indicated that they found the CDROM version of the books extremely useful: 31% found them indispensable, 59% found them helpful and only 5% said they were of minimal value.

- (4) **Defender Motion Book.** In development and set for release in 2001, the Motion Book will become part of the three-volume set of practice manuals published by SADO. It contains sample trial-level motions, accompanied by text discussing when and how to file them.

- (5) **Legal Consultation and Brief Bank Service.** During the report period, this service was provided only to those attorneys who personally visited the Detroit SADO office. In the most recent year of full service (1998), a total of approximately 3600 contacts were reported, consisting of 1,300 attorneys, 550 inmates, and 1,400 others, who called, wrote or visited the CDRC for help with a legal issue. Their questions ranged from help framing a legal issue to advice on strategy, and were answered by the CDRC's two experienced legal research attorneys. An estimated 300 automated research requests were completed for SADO attorneys, in addition. Legal consultation and brief bank services were used by attorneys in virtually all of Michigan's 83 counties. Prison inmate support was limited to mailing of information packets on how to pursue relief on their own, or advice on how to obtain counsel.

SERVICES DELIVERED BY THE WEB

Web-delivered support services grew in popularity and use during 2000, as attorneys lost the direct support (via phone and e-mail) they had received for twenty-three years. Attorneys also continued to upgrade their home and office computer systems, and more attorneys were trained by CDRC staff. Overall, the trend toward greater use of the web was clearly reflected in statistics on use of SADO's web site: this year saw traditionally-delivered services continued to decline. This means that more attorneys are dialing up online databases, with fewer relying on mail-delivered or printed resources. The advantages of this delivery method remain that:

- ❑ Attorneys may perform online research from their office or home computers, at any time of night or day, downloading useful material and legal pleadings;
- ❑ Research and downloaded materials are available immediately, without the delay inherent in surface mailing;
- ❑ Research results improve, as attorneys adapt their own searches, without filtering requests through another person; and
- ❑ The currency of information is vastly improved over traditional methods, as the web site is updated on a near-daily basis.

During 2000, growth was experienced in both the public and restricted sides of the web site. Materials were added in all segments, including descriptions of legal processes, training events, legal databases, and summaries of appellate decisions. The value of the site to users was demonstrated by the number of web site hits, user sessions and Forum messages, all of which continued to climb. The most revealing statistic tracked, user sessions, grew from approximately 10,000 per month to nearly 14,000 per month during the year. Membership in the SADO Forum (the e-mail discussion group) grew to approximately 600 criminal defense attorneys. Responding to a survey on web usage, 89% of those responding said that participation in the Forum was either very or sometimes helpful to their legal practice. Graphs tracking site usage accompany this report (see pages 29a-31a).

DIRECT TRAINING EVENTS

With funding support from the Michigan Justice Training Commission and State Bar of Michigan Foundation, the CDRC once again offered statewide training events on the subject of Automated Research and Writing for Criminal Defense Attorneys. Twenty-three events took place, each four hours long, reaching a total of 174 trainees. The average size of the group trained was seven, a small-group format ideal for this type of training. Each trainee had good access to the trainer, for questions and demonstrations. Taking the events directly to the attorneys' communities allowed for more participation by those unable to take the time to travel to a central location. Attorneys were trained in twelve separate communities, statewide.

Direct training is not only effective, but essential. A comparison of those handling assigned trials and appeals statewide reveals nearly one-third turnover on an annual basis. With so many new attorneys taking assignments, training prevents many costly blunders attributable to lack of knowledge. The hundreds of attorneys trained annually by the CDRC gain the skills needed to navigate the Web for its legal research capabilities, and to incorporate their findings into legal pleadings. Without timesaving automated research, counties would be billed much more time for traditional research.

Evaluations of the direct training events showed their great value to practicing attorneys. Surveys revealed that nearly 70% of trainees increased their use of the Internet for legal research after receiving the training. Asked how often they use the Internet for legal research, 75% said that they used it at least once a week. Increased numbers of user sessions, web page "hits" and Forum messages, while the numbers for Asked how often they include the SADO site in a research session, 61% of the trainees said that they use it most or

all of the time. Trainees also were asked how much research time was saved by using the SADO online databases: 23.5% said more than 10 hours monthly, 32.4% said between 5 and 10 hours monthly, and 19.1% said under 5 hours monthly. Asked if they would continue to use the SADO site for research and writing purposes, nearly 100% gave an affirmative answer. In addition, nearly 63% of those responding said that they had contacted SADO's Webmaster for assistance: 100% indicated that he was "very helpful."

SHARING WITH THE LEGAL SERVICES COMMUNITY

The CDRC continued in 2000 to share its resources and expertise with others, including particularly Michigan's legal services community. Staff participated in the State Bar of Michigan's Technology Task Force, a large group designing and implementing the "Michigan Plan." This Plan is intended to unite legal services programs through technology, allowing more cost-effective sharing of resources and improved legal representation of clients. The CDRC continued to provide a major service to that community by hosting the pleadings collection of the Michigan Poverty Law Program, creating a searchable database accessible via the web. The CDRC also continued to field inquiries from other programs nationally, providing technical consulting.

During 2000, the CDRC also provided major technical support to Michigan's Attorney Discipline Board. The CDRC's webmaster helped the agency to organize its resources into databases provided online, and SADO assumed the hosting of its web site. Similar services were provided to the Detroit Metropolitan Bar Association.

The CDRC's success in serving the appointed criminal defense bar is largely due to its relationship with a fully-functional law office, the State Appellate Defender Office. CDRC staff interact constantly with SADO's practicing attorneys, developing expertise on substantive issues. The CDRC's databases, particularly its brief bank, consist primarily of pleadings prepared during the normal course of SADO's business. Administrative support and overhead are shared, as are computer resources. Both SADO and appointed counsel benefit from the symbiosis, as both SADO and outside attorneys draw upon the collective expertise and work product. A freestanding support office would lose the cost-effectiveness of this relationship, which encourages re-use of pleadings and expertise.

CONCLUSION

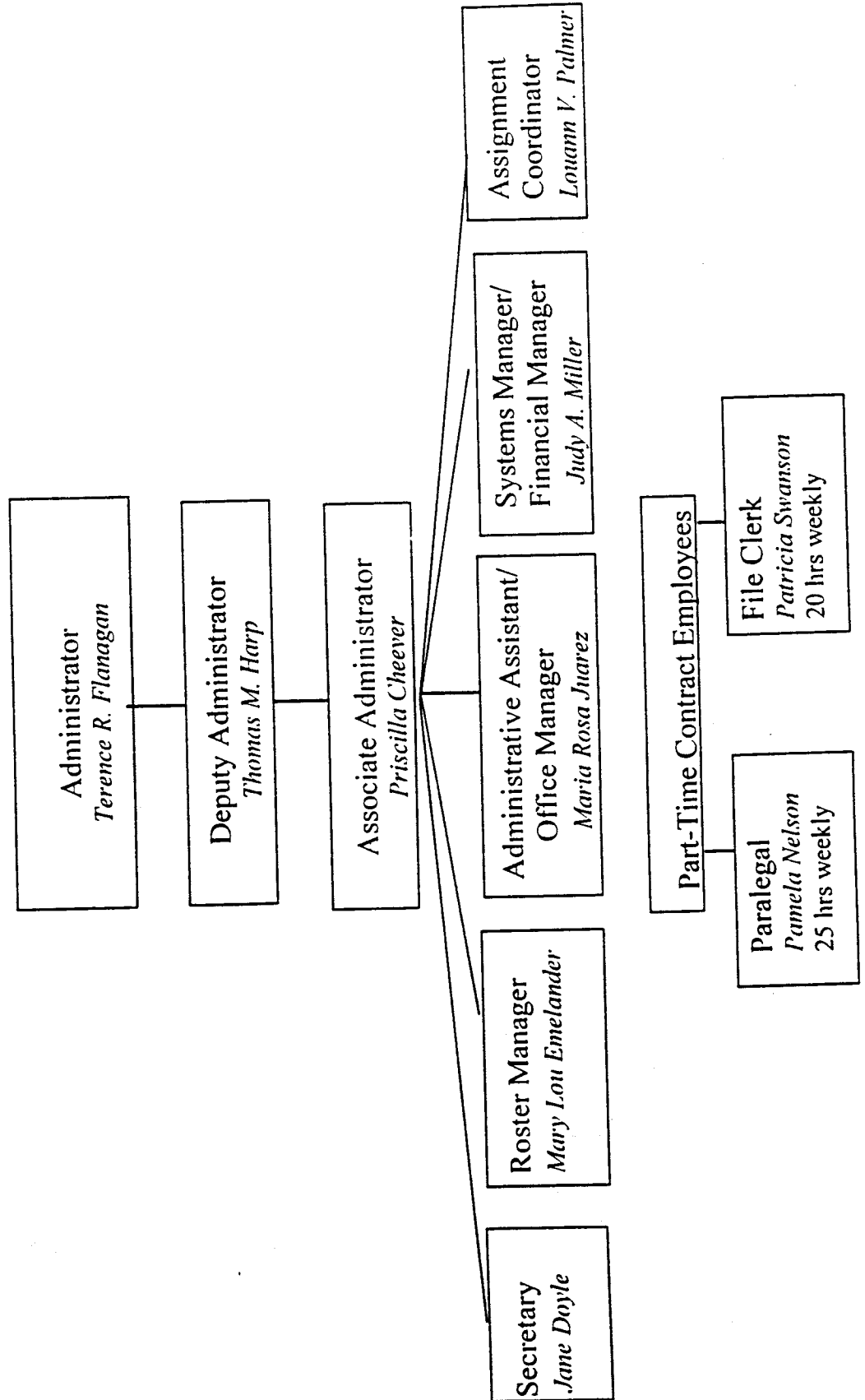
By the end of 1999, SADO had reduced its office budget and capacity by 20% while its workload continued unabated. In 2000, the Appellate Defender Commission changed SADO's intake formula to reflect the level of cases the counties assigned to SADO. By the close of 2000, SADO had accepted about 50% of the costly, complex Level III cases and reduced its intake of Level I cases. Unfortunately, budget reductions for 2001 forced the Commission to begin the process of again adjusting SADO's intake downward to reflect the loss of personnel.

APPENDICES

MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

December, 2000

MAACS ORGANIZATIONAL CHART



POSITION DESCRIPTIONS

ADMINISTRATOR

Responsible for office administration/personnel/policy, budget, and external relations. Prepares and conducts training programs. Handles data analysis, attorney payment issues, legislative advocacy, and amicus briefs.

DEPUTY ADMINISTRATOR

Processes complaints about roster attorney performance and conducts major investigations. Troubleshoots case-related problems. Answers roster attorney questions. Acts as the Attorney Grievance Commission liaison and monitors changes in Court of Appeals rules and procedures.

ASSOCIATE ADMINISTRATOR

Processes attorney reclassifications. Conducts routine attorney work-product evaluations. Answers roster attorney questions. Handles client correspondence, counsel assignment problems, file closing questions, and training.

BUDGET/COMPUTER ANALYST

Responsible for budget planning, bookkeeping, bill payment and payroll. Manages computer system including development, maintenance, and in-house training. Produces reports from computer database.

ASSIGNMENT COORDINATOR

Posts trial court appointment data to computer. Reviews trial court monthly log sheets to insure correct rotation of assignment lists. Responds to questions from trial court personnel. Back-up on phones.

ROSTER MANAGER

Maintains the roster, which includes application processing, changes in attorney address and phone numbers, level changes and circuit lists. Produces individual attorney profiles. Assembles materials necessary for reclassification requests. Maintains complaint and involuntary dismissal charts. Posts training attendance and tracks information received from the Attorney Discipline Board. Also acts as back-up typist.

ADMINISTRATIVE ASSISTANT/OFFICE MANAGER

Processes personnel changes . Handles building/parking issues and attends monthly meetings with building management company. Administers training grants. Arranges training programs and prepares materials. Responsible for office supplies and non-computer equipment. Tracks sales of office publications. Assists administrators with special projects. Also acts as back-up typist.

SECRETARY

Typist for 3 attorneys. Maintains general office files, answers phones, sorts and distributes mail, closes files.

PARALEGAL

Screens and tracks client correspondence. Obtains information from trial courts. Answers routine prisoner inquiries and sends out form materials. Maintains library and acts as back-up on phones.

FILE CLERK

Maintains office files. Assists in mailing, photocopying, and other miscellaneous activities.

**2000 MAACS STATISTICS
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	MISC.		MOTION/ RELIEF		PROSEC. APPEALS		PLEA/PV/ RESENTENCING			BENCH/ EVIDENTIARY HEARING/6.5/INT.			JURY			Grand Total
	1	2	Total	1	2	Total	1	2	Total	1	2	3	Total			
1st Hillsdale	7	--	7	--	--	--	--	--	--	--	2	1	3	10		
2nd Berrien	51	46	97	--	1	1	1	2	2	11	14	112				
3rd Wayne	167	295	462	78	125	203	24	38	167	229	902					
4th Jackson	30	26	56	1	--	1	2	3	12	17	75					
5th Barry	6	4	10	--	--	--	--	1	--	1	11					
6th Oakland	75	166	241	--	17	17	17	22	99	138	396					
7th Genesee	89	102	191	--	2	2	--	11	31	42	235					
8th Ionia/Montcalm	5	4	9	1	--	1	2	--	4	6	16					
9th Kalamazoo	25	25	50	1	3	4	1	3	9	13	67					
10th Saginaw	10	12	22	--	--	--	4	8	18	30	52					
11th Alger/Luce Schoolcraft	7	1	8	--	--	--	1	1	--	2	10					

Appendix E

Circuit	MISC.	MOTION/ RELIEF	PROSEC. APPEALS	PLEA/PV/ RESENTENCING			BENCH EVIDENTIARY HEARING/6.5/INT.			JURY			Grand Total	
				1	2	Total	1	2	Total	1	2	3		
														Total
12th Baraga/Houghton/ Keweenaw				5	3	8	--	--	--	--	1	2	3	11
13th Antrim/Grand Traverse/Leelanau				23	11	34	--	--	--	1	--	3	4	38
14th Muskegon				46	57	103	--	2	2	1	7	6	14	119
15th Branch				1	--	1	--	--	--	--	1	1	2	3
16th Macomb				102	77	179	--	1	1	2	5	20	27	207
17th Kent				24	65	89	1	2	3	5	7	43	55	147
18th Bay				17	20	37	--	--	--	1	2	2	5	42
19th Benzie/Manistee	2			3	3	6	--	--	--	--	--	--	--	8
20th Ottawa				2	3	5	--	2	2	1	1	4	6	13
21st Isabella		2		19	9	28	--	--	--	--	1	1	2	32
22nd Washtenaw				21	20	41	--	--	--	3	2	11	16	57
23rd Iosco/Oscoda				4	3	7	--	--	--	2	--	2	4	11

Circuit	MISC.	MOTION/ RELIEF	PROSEC. APPEALS	PLEA/PV/ RESENTENCING			BENCH EVIDENTIARY HEARING/6.5/INT.			JURY			Grand Total		
				1	2	Total	1	2	Total	1	2	3		Total	
24th Sanilac				5	2	7									7
25th Marquette				6	3	9			1	1	2	1	2	5	15
26th Alcona/Alpena/ Montmorency/ Presque Isle				5	5	10					3		1	4	14
27th Newaygo/Oceana				10	4	14		2		2					16
28th Missaukee/Wexford				9	4	13									13
29th Clinton/Gratiot				13	6	19					1			1	20
30th Ingham	1			56	35	91		1	1	2	5	15	16	36	130
31st St. Clair				24	23	47			1	1		5	9	14	62
32nd Gogebic/Ontongaon				1	2	3									3
33rd Charlevoix				8	4	12							2	2	14
34th Arenac/Ogemaw Roscommon				1	1	2						2	2	4	6
35th Shiawassee				1	4	5		1		1	2	3	1	6	12

Circuit	MISC.	MOTION/ RELIEF		PROSEC. APPEALS	PLEA/PV/ RESENTENCING			BENCH EVIDENTIARY HEARING/6.5/INT.			JURY			Grand Total
		1	2		Total	1	2	Total	1	2	3	Total		
36th Van Buren		2	2	4		--	--	--	--	3	2	5	9	
37th Calhoun		48	32	80		--	--	--	3	6	11	20	100	
38th Monroe		17	19	36		--	1	1	--	3	11	14	51	
39th Lenawee		8	8	16		--	--	--	2	--	--	2	18	
40th Lapeer		1	1	2		--	--	--	3	--	1	4	6	
41st Dickinson/Iron Menominee		8	6	14		--	--	--	--	1	1	2	16	
42nd Midland		14	21	35		--	--	--	1	2	2	5	40	
43rd Cass		16	4	20		--	--	--	2	--	3	5	25	
44th Livingston	1	21	13	34		1	--	1	1	2	1	4	40	
45th St. Joseph		6	9	15		--	--	--	--	--	3	3	18	
46th Crawford/Kalkaska Otsego		10	18	28		--	--	--	3	2	3	8	36	
47th Delta		3	--	3		--	--	--	--	--	3	3	6	

Circuit	MISC.	MOTION/ RELIEF	PROSEC. APPEALS	PLEA/PV/ RESENTENCING		BENCH EVIDENTIARY HEARING/6.5/INT.			JURY			Grand Total		
				1	2	Total	1	2	Total	1	2		3	Total
48th Allegan				9	6	15	--	--	--	--	--	2	2	17
49th Mecosta/Osceola				9	6	15	--	1	1	1	1	--	2	18
50th Chippewa/Mackinaw				3	3	6	--	--	--	--	--	1	1	7
51st Lake/Mason	1			5	1	6	--	--	--	1	--	--	1	8
52nd Huron				2	4	6	--	--	--	1	--	2	3	9
53rd Cheboygan				6	5	11	--	--	--	1	--	--	1	12
54th Tuscola				4	7	11	--	--	--	--	--	3	3	14
55th Clare/Gladwin				3	5	8	--	--	--	--	--	2	2	10
56th Eaton				15	19	34	1	--	1	2	1	5	8	43
57th Emmet				5	1	6	--	--	--	1	--	--	1	7
ALL CIRCUITS	6	0	10	1093	1235	2328	88	160	248	103	165	536	804	3396
TOTALS	0.18%		0.29%	32.2%	36.4%	68.6%	2.6%	4.7%	7.3%	3.0%	4.9%	15.8%	23.7%	

Level 1 1284 37.8%

Level 2 1560 45.9%

Level 3 536 15.8%

Total 3380

2000 MAJORITY STATISTICS
SADO ASSIGNED APPEALS BY CASE TYPE AND LEVEL

Circuit	MISC.	MOTION/ PROSEC.		PLEA/PV/		BENCH			JURY			Grand Total		
		RELIEF	APPEALS	RESENTENCING		EVIDENTIARY HEARING		JURY						
				1	2	1	2	Total	1	2	3		Total	
1st Hillsdale	--	--	--	3	--	3	--	--	--	--	--	--	3	
2nd Berrien	--	--	--	11	11	22	--	1	1	1	2	4	7	30
3rd Wayne	--	--	4	29	55	84	13	24	37	5	8	78	91	216
4th Jackson	--	--	--	7	6	13	1	--	1	--	2	5	7	21
5th Barry	--	--	--	3	2	5	--	--	--	--	--	--	--	5
6th Oakland	--	--	--	17	40	57	--	5	5	3	5	50	58	120
7th Genesee	--	--	--	15	27	42	1	--	1	--	3	15	18	61
8th Ionia/Montcalm	--	--	--	--	1	1	--	1	1	--	--	2	2	4
9th Kalamazoo	--	--	--	5	7	12	1	1	2	1	1	4	6	20
10th Saginaw	--	--	--	3	4	7	--	--	--	--	1	5	6	13
11th Alger/Luce Schoolcraft	--	--	--	2	--	2	--	--	--	1	--	--	1	3

2000 MAACS STATISTICS
SADO ASSIGNED APPEALS BY CASE TYPE AND LEVEL

Circuit	MISC.	MOTION/ PROSEC.			PLEA/PV/ RESENTENCING			BENCH EVIDENTIARY HEARING			JURY			Grand Total
		RELIEF	APPEALS	1	2	Total	1	2	Total	1	2	3		
12th Baraga/Houghton/ Keweenaw	--	--	--	2	--	2	--	--	--	--	--	--	--	2
13th Antrim/Grand Traverse/Leelanau	--	--	--	6	4	10	--	--	--	--	1	--	1	11
14th Muskegon	--	--	--	10	14	24	--	1	1	--	3	3	6	31
15th Branch	--	--	--	--	--	--	--	--	--	--	1	1	2	2
16th Macomb	--	--	--	22	21	43	--	1	1	--	1	10	11	55
17th Kent	--	--	--	6	17	23	--	1	1	3	2	16	21	45
18th Bay	--	--	--	6	5	11	--	--	--	--	1	1	2	13
19th Benzie/Manistee	1	--	--	1	1	2	--	--	--	--	--	--	--	3
20th Ottawa	--	--	--	1	2	3	--	1	1	--	--	1	1	5
21st Isabella	--	--	--	3	5	8	--	--	--	--	--	--	--	8

2000 MAAG STATISTICS
SADO ASSIGNED APPEALS BY CASE TYPE AND LEVEL

Circuit	MISC.	MOTION/ PROSEC.		PLEA/PV/			BENCH			Grand Total			
		RELIEF	APPEALS	RESENTENCING		EVIDENTIARY HEARING		JURY					
				1	2	1	2		1		2	3	
22nd Washtenaw	--	--	--	4	5	9	--	--	1	--	6	7	16
23rd Iosco/Oscoda	--	--	--	1	--	1	--	--	1	--	2	3	4
24th Sanilac	--	--	--	1	1	2	--	--	--	--	--	--	2
25th Marquette	--	--	--	--	1	1	--	--	1	--	1	2	3
26th Alcona/Alpena/ Montmorency/ Presque Ilse	--	--	--	1	--	1	--	--	--	--	1	1	2
27th Newaygo/Oceana	--	--	--	2	1	3	1	--	1	--	--	--	4
28th Missaukee/Wexford	--	--	--	3	1	4	--	--	--	--	--	--	4
29th Clinton/Gratiot	--	--	--	3	2	5	--	--	--	--	--	--	5
30th Ingham	--	--	--	11	9	20	1	--	1	1	2	7	31
31st St. Clair	--	--	--	6	4	10	--	1	1	--	1	3	15
32nd Gogebic/Ontongaon	--	--	--	1	--	1	--	--	--	--	--	--	1

2000 MAACS STATISTICS
SADO ASSIGNED APPEALS BY CASE TYPE AND LEVEL

Circuit	MISC.	MOTION/ PROSEC.		PLEA/PV/		BENCH			Grand Total					
		RELIEF	APPEALS	RESENTENCING		EVIDENTIARY HEARING		JURY						
				1	2	Total	1			2	Total	1	2	3
33rd Charlevoix	--	--	--	3	1	4	--	--	--	--	--	1	1	5
34th Arenac/Ogemaw Roscommon	--	--	--	--	--	--	--	--	--	--	--	1	2	2
35th Shiawassee	--	--	--	--	1	1	--	--	--	1	1	1	3	4
36th Van Buren	--	--	--	1	1	2	--	--	--	--	--	1	1	3
37th Calhoun	--	1	--	8	9	17	--	--	--	1	1	6	8	25
38th Monroe	--	--	--	4	6	10	--	1	1	--	1	3	4	15
39th Lenawee	--	--	--	3	3	6	--	--	--	1	--	--	1	7
40th Lapeer	--	--	--	1	--	1	--	--	--	1	--	1	2	3
41st Dickinson/Iron Menominee	--	--	--	1	3	4	--	--	--	--	--	--	--	4
42nd Midland	--	--	--	4	7	11	--	--	--	--	1	1	2	13
43rd Cass	--	--	--	4	1	5	--	--	--	2	--	1	3	8

2000 MAJORITY STATISTICS
SADO ASSIGNED APPEALS BY CASE TYPE AND LEVEL

Circuit	MISC.		PROSEC. RELIEF APPEALS		PLEA/PV/ RESENTENCING			BENCH EVIDENTIARY HEARING			JURY		Grand Total
					1	2	Total	1	2	Total	1	2	
44th Livingston	--	--	--	4	4	4	8	1	--	1	--	--	9
45th St. Joseph	--	--	--	1	4	4	5	--	--	--	2	2	7
46th Crawford/Kalkaska Otsego	--	--	--	3	2	2	5	--	--	--	1	4	9
47th Delta	--	--	--	--	--	--	--	--	--	--	2	2	2
48th Allegan	--	--	--	2	2	2	4	--	--	--	1	1	5
49th Mecosta/Osceola	--	--	--	1	1	1	2	--	1	1	--	2	5
50th Chippewa/Mackinaw	--	--	--	--	1	1	1	--	--	--	1	1	2
51st Lake/Mason	--	--	--	2	1	1	3	--	--	--	--	1	4
52nd Huron	--	--	--	--	2	2	2	--	--	--	--	1	3

2000 MAACS STATISTICS
SADO ASSIGNED APPEALS BY CASE TYPE AND LEVEL

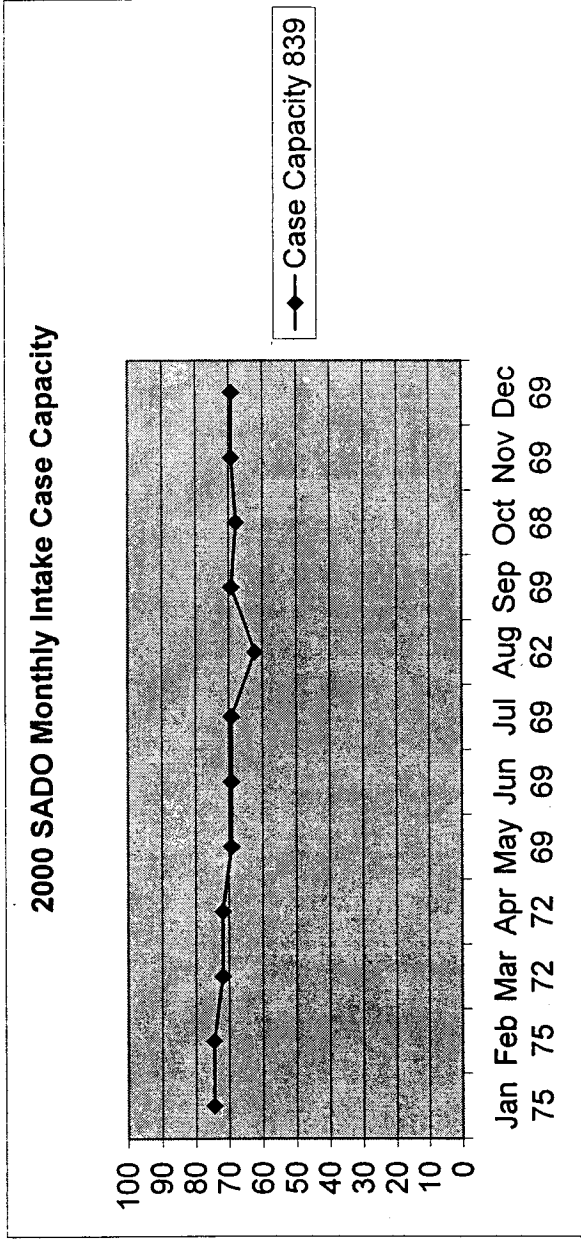
Circuit	MISC.	MOTION/ RELIEF	PROSEC. APPEALS	PLEA/PV/ RESENTENCING			BENCH EVIDENTIARY HEARING			JURY			Grand Total	
				1	2	Total	1	2	Total	1	2	3		
53rd Cheboygan	--	--	--	2	2	4	--	--	--	1	--	--	1	5
54th Tuscola	--	--	--	1	2	3	--	--	--	--	--	3	3	6
55th Clare/Gladwin	--	--	--	--	3	3	--	--	--	--	--	1	1	4
56th Eaton	--	--	--	3	4	7	1	--	1	1	1	2	4	12
57th Emmet	--	--	--	2	--	2	--	--	--	--	--	--	--	2
ALL CIRCUITS TOTALS	1	--	4	235	306	541	20	39	59	31	41	245	317	922

Level 1 287
Level 2 386
Level 3 246
Total 919

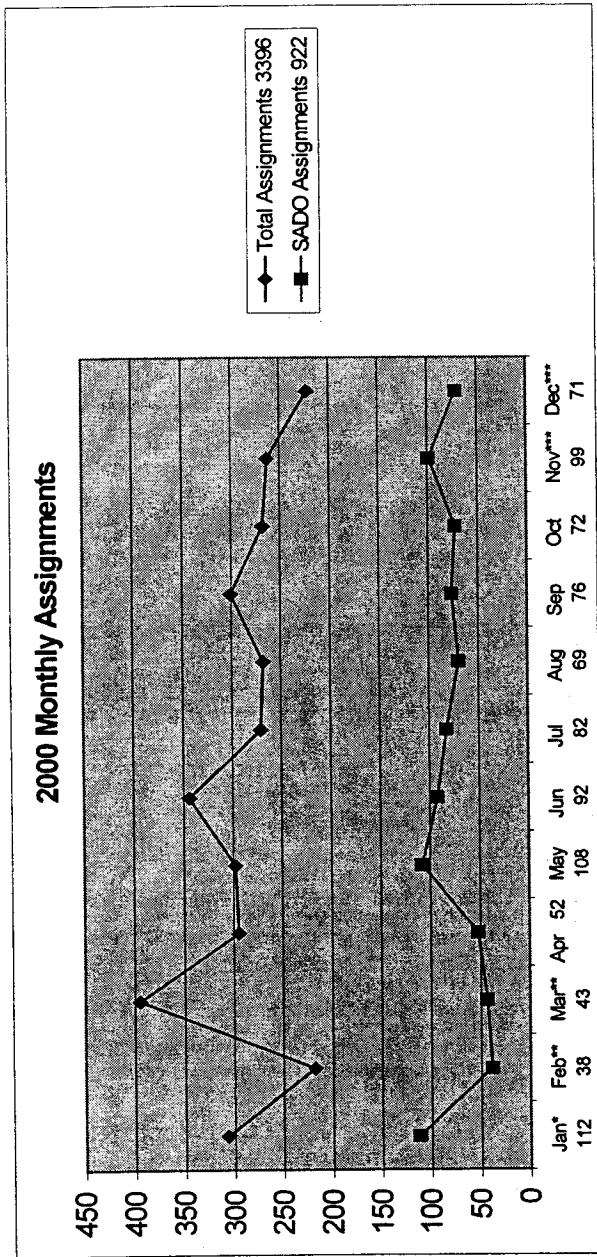
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APPENDICES

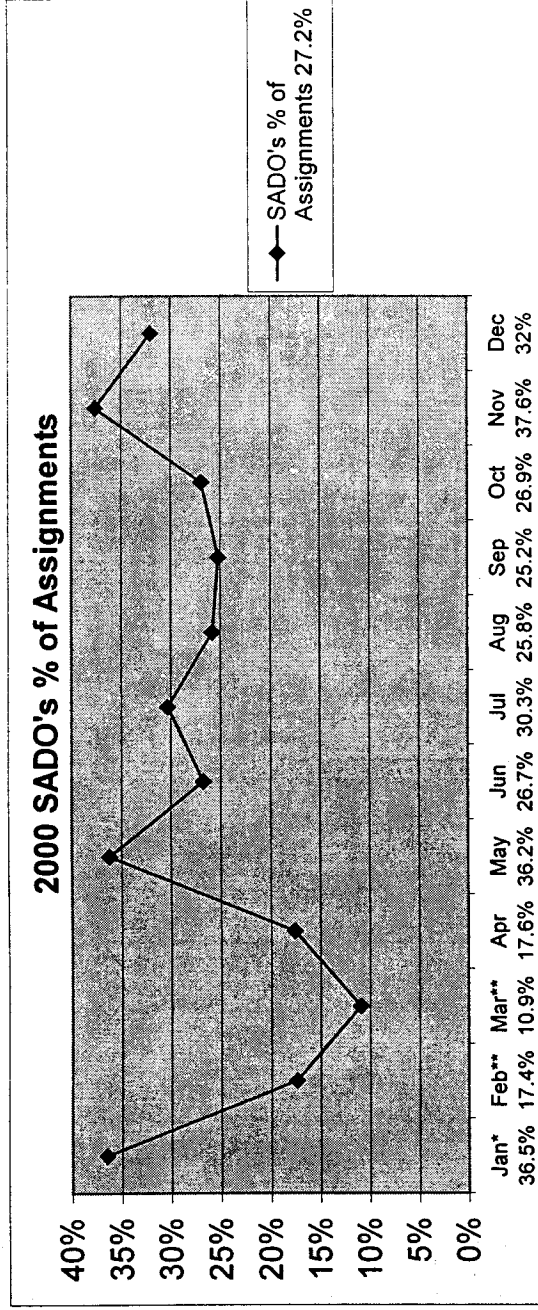
STATE APPELLATE DEFENDER OFFICE



Jan - Feb - 23 attorneys
 Mar - Apr - 22 attorneys (Smith on leave)
 May - Aug - 21 attorneys (Smith on leave; Gutierrez resigned)
 Sep - 21 attorneys (Smith returned; Gutierrez position vacant; Booker resigned)
 Oct - Dec - 21 attorneys (Gutierrez rehired; Steinberg on leave)



Jan - Feb - 23 attorneys
 Mar - Apr - 22 attorneys (Smith on leave)
 May - Aug - 21 attorneys (Smith on leave; Gutierrez resigned)
 Sep - 21 attorneys (Smith returned; Gutierrez position vacant; Booker resigned)
 Oct - Dec - 21 attorneys (Gutierrez rehired; Steinberg on leave)



*SADO was overassigned in Jan 2000 because MAACS system did not make necessary adjustment when SADO was shutdown to new assignments in November and December 1999

**SADO was "frozen" to accepting new assignments in February and March 2000
Some counties got on-line with percentage rotations (rather than every 4th case to SADO)

Tesmer v Granholm opinion issued 3/31/00

New Assignments in 2000

Total New Assignments 1/1/00 to 12/31/00	1,000
Cases Open as of 12/31/00	1,833
Cases Closed 1/1/00 to 12/31/00	<u>660</u>
TOTAL CASES PROCESSED 1/1/00 TO 12/31/00	3,494

Last Action on Cases Open as of 12/31/00*

I. TRIAL COURT		
Pending		95
Due and Owing		33
Disposition		52
Done (cases sent to closed files)		<u>7</u>
	Total	187
II. COURT OF APPEALS		
Pending		20
Due and Owing (No Brief/App)		236
SADO Brief		101
Prosecutors Brief		202
Orals		78
Delayed Applications		40
Disposition		187
Done (cases sent to closed files)		<u>11</u>
	Total	875
III. SUPREME COURT		
SADO Application		160
Prosecutor Application		3
Motion for Rehearing		0
Brief Due		2
SADO Brief		3
Prosecutor Brief		2
Orals		4
Abeyance		2
Disposition		151
Reopened		1
Done		<u>16</u>
	Total	344
IV. UNITED STATES COURT – DISTRICT/APPEALS/SUPREME		
Pending		29
Orals		3
Disposition		19
Done		0
SADO Brief		5
Prosecutor Brief		<u>3</u>
	Total	55
V. OPEN COURT		
Due and Owing		<u>368</u>
	Total	368
TOTAL OPEN CASES:		1,833

*This chart tracks the status of all cases on the 31st day of December 2000. "Open Court" cases are those where SADO was assigned but the choice of court in which to file the opening (first) pleading has not yet been made. Cases where there is a "disposition" will have either a "rehearing" filed, or application to the next highest court filed by defense or prosecution, or be closed.

Disposition of Cases Closed 1/1/00 to 12/31/00

I.	TRIAL COURT	
	Motion Resentence/Credit/Presentence Report/ Granted/Denied	49
	Substitute Counsel Appointed/Retained	22
	Dismissed by Motion/Stipulation/Order	162
	Motion Vacate Plea/Sentence/Conviction Granted/Denied	2
	Motion New Trial/Withdraw Plea Granted/Denied	10
	Motion for Relief of Judgment/Granted/Denied	0
	Appeal Dismissed	1
	Other Disposition	3
	Closed Without Disposition *	13
	Total	262
II.	COURT OF APPEALS	
	Regular Disposition	97
	Appeal Dismissed By Stipulation/Motion/Guidance/Court	23
	Application Leave/Delayed Appeal Denied	81
	Appeal Dismissed	2
	Substitute Counsel Appointed/Retained	6
	Closed Without Disposition *	2
	Prosecutor App Denied	0
	Total	211
III.	SUPREME COURT	
	Leave Denied – SADO	173
	Leave Denied – Prosecutor	3
	Reversed, Remanded and Vacated	2
	Reversed – Prosecutor	0
	Affirmed	2
	Affirmed – Prosecutor	0
	Leave Granted – SADO (New Case Started)	3
	Leave Granted – Pros	1
	Appeal Dismissed by Motion/Stipulation	0
	Appeal Dismissed	0
	Total	184
IV	UNITED STATES COURTS – DISTRICT/APPEALS/SUPREME	
	Petition for Writ of Certiorari Denied	0
	Petition for Writ of Habeas Corpus Denied	2
	Motion Granted/Denied	0
	Reversed	0
	Affirmed	1
	Total	3
IV.	MISCELLANEOUS	
	No Disposition	0
	Total	0
	TOTAL CLOSED CASES:	660

*"Closed without Disposition" means closed without litigation or order.

Filings by SADO 1/1/00 to 12/31/00

TRIAL COURT	629
COURT OF APPEALS	1,513
SUPREME COURT	310
UNITED STATES COURTS	<u>94</u>
Total Filings:	2,546

Major Filings by SADO 1/1/00 to 12/31/00

TRIAL COURT	544
COURT OF APPEALS	648
SUPREME COURT	282
UNITED STATES COURTS	<u>24</u>
Total Filings:	1,498

Assignments of SADO 1/1/00 to 12/31/00

PLEAS	507
Probation Violation Pleas	67
JURY TRIALS	330
BENCH TRIALS	49
Probation Violation Trials	19
PROSECUTOR APPEALS	5
RESENTENCING	17
LEAVE GRANTED – SADO	2
LEAVE GRANTED – OTHER	2
SC APPLICATION – OTHER	0
SPECIALS	<u>2</u>
Total:	1,000

TABLE I
CASE ACTIVITY AND WORKLOAD

	Average Staffing Level	Office Appointments	Attorney Assignments	Average Assignment Per Attorney***	Total Filings	Average Filing Per Attorney	Average Filing Per Case	Total *Opening Pleadings	Total **Major Filings	Average Major Filing Per Attorney	Average Major Filing Per Case
1993	23	1,078	1,127	49.0	4,581	199	4.0	1,167	1,492	64.86	1.32
1994	27	1016	907	33.6	4,083	151	4.5	1,083	1,638	60.66	1.61
1995	21	951	1,029	49.0	3,871	184	3.8	1,043	1,715	81.66	1.80
1996	25	874	1,071	42.84	3,699	148	3.5	944	1,554	62.16	1.77
1997	25	931	992	39.68	3,345	134	3.4	930	1,532	61.28	1.64
1998	27	1,033	1,125	41.66	2,993	110.8	2.66	885	1,786	66.14	1.59
1999	24	852 + +	1,041	43.4	2,974	124	2.856	1,025	1,840	76.7	1.8
2000	21.5	1,000	957	44.5	2,546	118	2.66	810	1,498	69.67	1.6

* An opening pleading seeks relief from a conviction or sentence – e.g., a brief on appeal, motion for peremptory reversal with supporting brief, motion for new trial or resentencing with brief/memo in support and motion for relief from judgment under Chapter 6 of the Michigan Court Rules or dismissal or withdrawal from the case.

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

*** Some national standards recommend that criminal appellate attorneys handle only 25 appeals a year. See National Advisory Commission on Criminal Justice Standards and Goals, Courts 13.12 (1973); ABA Special Committee On Criminal Justice In A Free Society, Criminal Justice In Crisis 43 (1989); ABA Standards for Criminal Justice – Providing Defense Services, Standards 5 – 5.3 Workload (3ed 1992).

The National Legal Aid and Defender Association rejects fixed numbers, opining that workload standards depend on the jurisdiction and type of work, but suggests from its surveys about a 22 weighted non-death penalty work unit limit. NLADA Indigent Defense Caseloads and Common Sense: An Update, pp 10-11, citing NLADA Standards and Evaluations Design for Appellate Defender Offenses, Standards I.F., I.H.; II.C. (1980).

+ Although the Commission officially increased SADO's new case intake for 1997, it simultaneously reduced the number of assignments to regular staff attorneys by two (2) weighted work units, due to the reduced time to file briefs in the Court of Appeals and the penalties personally imposed by the Court on staff attorneys if their briefs are filed untimely.

+ + SADO closed assignment intake in November and December 1999. Other wise assignments would have been approximately 1,000.

TABLE II

**SADO'S PERCENT OF COMPLEX (LEVEL III JURY TRIAL APPEALS)
APPELLATE ASSIGNMENTS 1993-2000
AS COUNTED BY MAACS**

	GRAND TOTAL	SADO'S PERCENT* OF GRAND TOTAL*	LEVEL III CASES PERCENT OF ALL CASES	SADO'S LEVEL III CASES and PERCENT
1993	5,927	953 16.1%	824 13.9%	286 34.7%
1994	5,047	917 18.2%	698 13.8%	271 38.8%
1995	4,762	837 17.6%	636 13.4	241 37.9%
1996	4,287	763 17.8%	687 16.0%	235 34.2%
1997	4,080	832 20.4%	581 14.2%	199 34.3%
1998	3,983	948 23.8%	612 15.4%	216 35.3%
1999	3,362	776 23.1%	591 17.6%	217 28%
2000	3,393	917 27.0%	533 15.7%	242 45.4%

* The totals in this table differ from those in other tables because the numbers here are MAACS' MAACS subtracts assignments if another attorney is substituted for the original attorney. SADO, however, counts those assignments and reconciles with MAACS at year's end. That is because these cases can have varying amounts of work done before the substitution. The original attorney may have done virtually all of the work. The "new" attorney still must do a significant amount of work to familiarize him/herself with the case, to correct any deficiencies and to complete the work. Thus, each attorney will want to count the assignment, even though MAACS only credits one of them.

In addition, judges assign appeals of pre-conviction rulings, not all of which are sent to MAACS for inclusion in the total number.

TABLE III
ASSIGNMENT OF CASES BY TYPE

	PLEAS	JURY TRIALS	BENCH TRIALS	OTHER	TOTAL
1993	577 *[53.5%]	412 [38.2%]	81 [7.5%]	8 [0.7%]	1078
1994	532 [52%]	412 [41%]	57 [6%]	15 [1%]	1016
1995	508 ** (87) [53%]	378 [40%]	50 [5%]	15 [2%]	951
1996	441 (307) [50%]	356 [41%]	53 [6%]	23 [3%]	874
1997	539 (434) [58%]	315 [34%]	50 [5%]	27 [3%]	931
1998	618 [60%]	332 [32%]	68 [7%]	15 [1%]	1033
1999***	462 (54%)	338 (40%)	47 (6%)	5 (1%)	852
2000	587 (59%)	357 (36%)	49 (5%)	7 (1%)	1000

* Bracket = Percentage of total assignments

** Parenthesis = Number of Proposal B Cases

*** Office closed to new assignments in November and December; 20% budget cut and concomitant 20% reduction in staff

TABLE IV
SUBSTITUTION APPOINTMENTS

	APPOINTMENTS	SUBSTITUTIONS*
1993	1078	110
1994	1016	131
1995	951	95
1996	874	97
1997	931	107
1998	1033	124
1999	852	101
2000	1000	138

- Most of these cases prove extremely difficult. They often involve allegations of ineffective assistance of private counsel where MAACS, a court or the Grievance Commission removed of prior counsel and substitutions of SADO. Many involve unmanageable clients (some going through as many as 5 trial and appellate attorneys) and/or very complex issues. Frequently private counsel are simply underpaid and/or overwhelmed by these cases and needed to withdraw due to economic necessity.

TABLE V

SADO OVERALL RELIEF RATES* 1993-2000

	TOTAL	NO RELIEF GRANTED	RELIEF GRANTED	PARTIAL- RELIEF GRANTED	RELIEF RATE COMBINED %
1993	712	531 (74.5%)	139 (19.5%)	42 (5.9%)	25.4
1994	819	633 (77%)	145 (17.7%)	141 (5%)	22.7
1995	802	641 (79.9%)	112 (13.96%)	49 (6.11%)	20.07
1996	800	649 (81.1%)	107 (13.37%)	44 (5.5%)	18.87
1997	929	776 (83.5%)	119 (12.8%)	34 (3.65%)	16.45
1998	763	643 (84.2%)	108 (13.76%)	25 (3.27%)	17.03
1999	676	553 (81.8%)	97 (14.35%)	26 (3.84%)	18.2
2000	678	562 (83%)	89 (13.0%)	25 (3.76%)	16.76

* Cases where relief sought – excludes dismissals, death, cases closed without litigation and withdrawals.

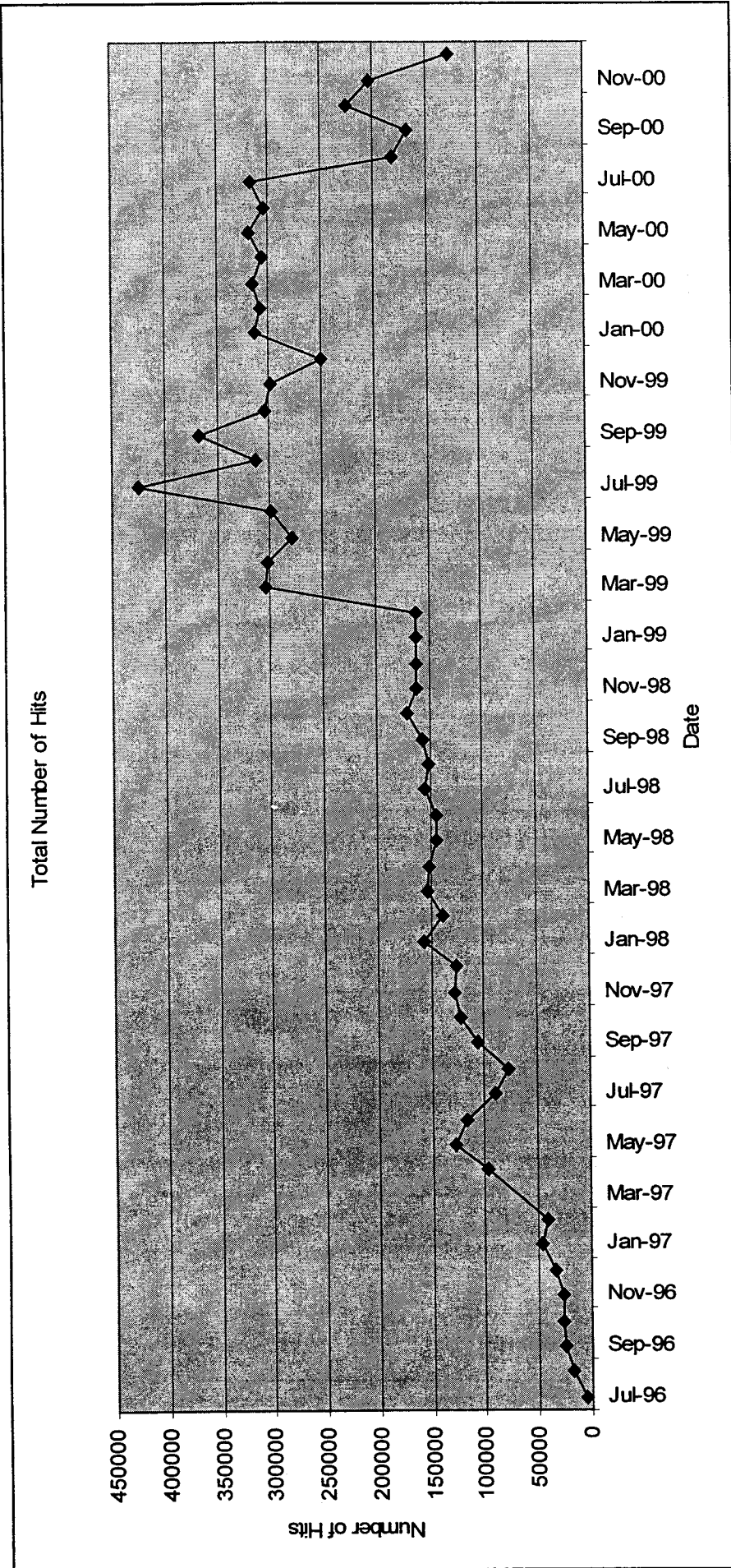
The decline in relief rate over recent years is caused by several factors: better training of the bench and bar, standardized jury instructions, refined sentencing guidelines, clarification of existing law and broadened use of harmless error doctrines. See, e.g., *People v Carines*, 460 Mich 750 (1999)

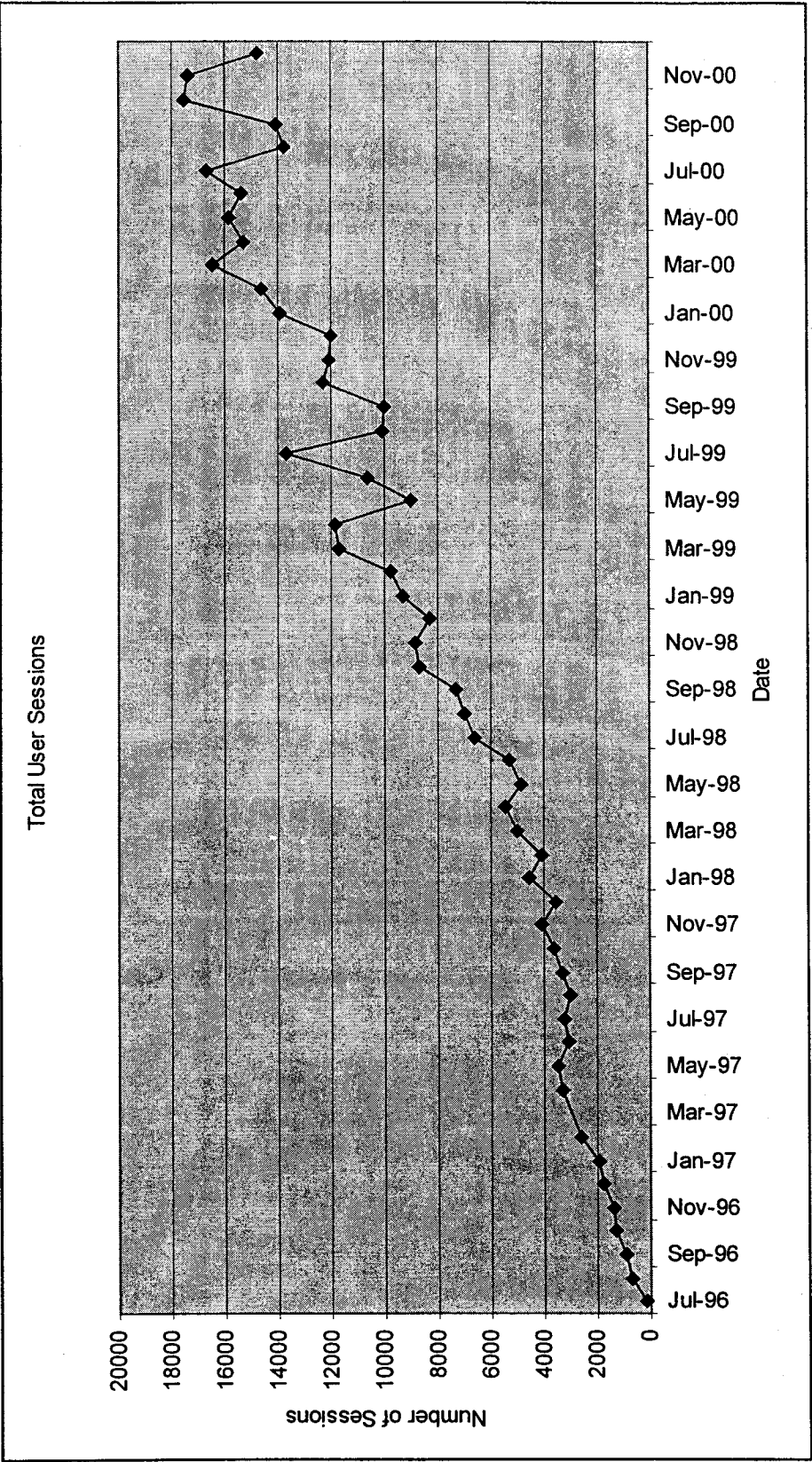
TABLE VI
DISMISSALS AND WITHDRAWALS

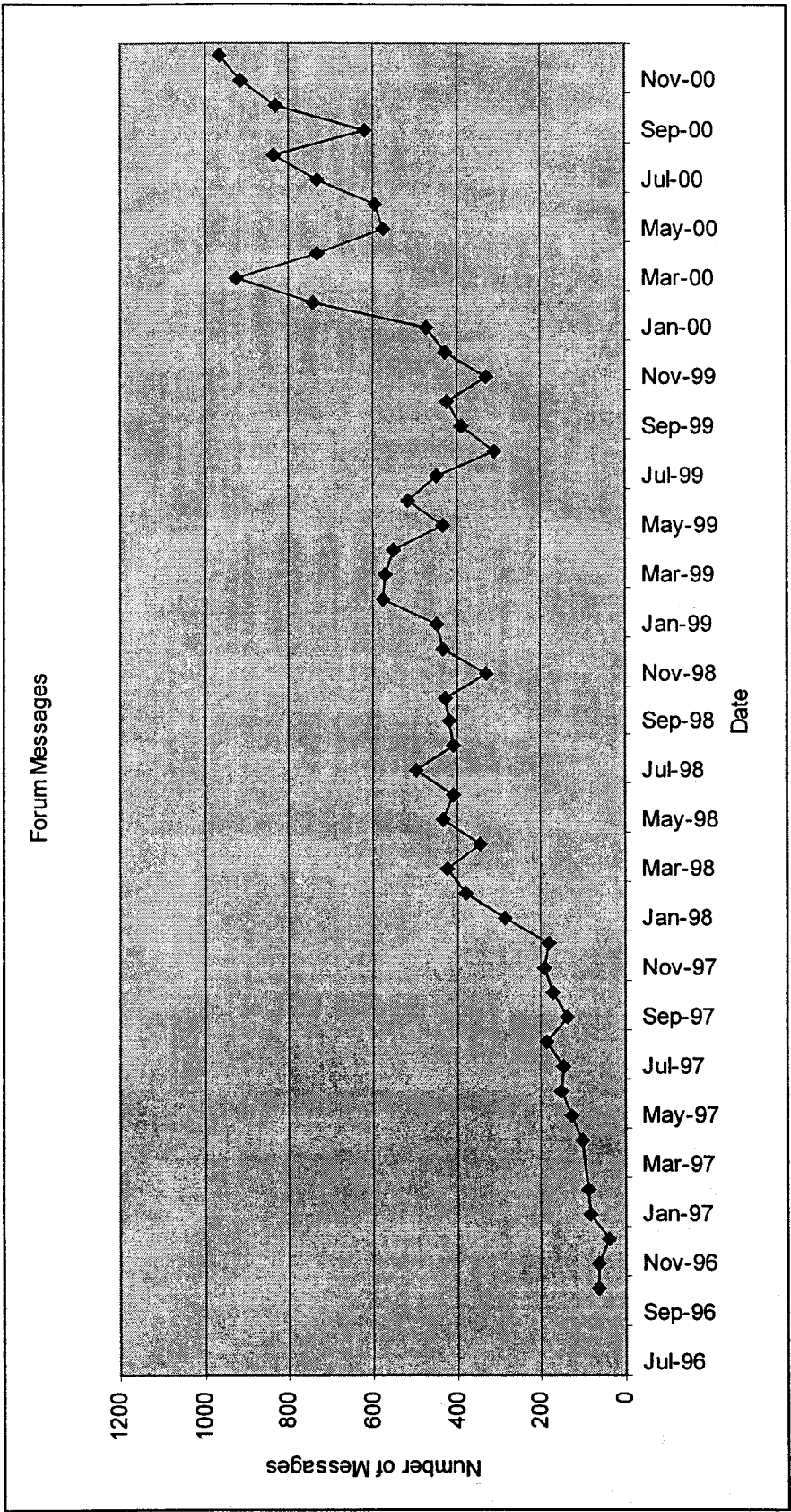
	TOTAL DISPOSITIONS	DISMISSALS *	WITHDRAWALS **
1993	1005	224 (24.27%)	69 (6.86%)
1994	1086	231 (21.27%)	36 (3.3%)
1995	1011	175 (17.31%)	34 (3.36%)
1996	1051	221 (21.02%)	30 (2.85%)
1997	1224	266 (23.66%)	24 (2.36%)
1998	1063	216 (20%)	32 (3%)
1999	1075	284 (26%)	39 (4%)
2000	922	189 (20%)	32 (3%)

* Dismissals usually occur after complete review of the case and consultation with the client. This generally involves much substantive work for the defense attorney, but only minor or no work for the courts and prosecution. SADO only does voluntary dismissals. These save the system a tremendous amount of resources. SADO does not use the laborious and time-consuming dismissal of appeals without the approval of the client required by United State Supreme Court ruling in Anders v California, 386 US 738 (1967): See also MCR 7.211(C)(5) on Michigan's procedure for "Anders" withdrawal. Counseling clients on dismissals also prevents many from pursuing unnecessary, time-consuming and potentially harmful appeals.

** Withdrawal can occur before any substantial work is done, for example, in known conflict of interests cases, or at any point thereafter, even after full briefing and oral argument. None of these withdrawals is for overload.







APPELLATE DEFENDER COMMISSION

