

APPELLATE DEFENDER COMMISSION

2002 ANNUAL REPORT

for the

MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

and the

STATE APPELLATE DEFENDER OFFICE

2002 APPELLATE DEFENDER COMMISSION

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October 15, 2003

The Appellate Defender Commission is pleased to submit the 2002 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 county-funded, assigned counsel panel (Michigan Appellate Assigned Counsel System) and a state-funded public defender office (State Appellate Defender Office).

Thank you for the opportunity to submit our 2002 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, appearing to read "Oliver C. Mitchell, Jr.", with a stylized flourish at the end.

Oliver C. Mitchell, Jr., Chair 2003
Appellate Defender Commission

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THE 2002 ANNUAL REPORT OF THE MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

INTRODUCTION

Indigent Michigan felony defendants who submit requests within certain time limits are entitled to have publicly funded counsel appointed to represent them on appeal. The overall system for providing indigent appellate felony defense is governed by the seven-member Appellate Defender Commission pursuant to MCL 780.711 et seq. The system has two components. About 25% of the indigents' appeals are handled by the State Appellate Defender Office (SADO), the state-funded appellate level public defender office established in 1969; the other 75% are handled by private attorneys who are appointed and paid by the counties.

The Michigan Appellate Assigned Counsel System (MAACS) was established by the Commission in 1985 to administer the appellate assignment process and to maintain the roster of private attorneys eligible for assignments. MAACS is charged with ensuring that cases are assigned by appropriate methods to qualified lawyers, that these lawyers receive 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).

In Administrative Order 1981-7, the Supreme Court approved the regulations, developed by the Commission, that govern which private attorneys are eligible to receive appellate assignments and how counsel is to be selected for each individual case. The Supreme Court also approved the 20 minimum performance standards – the Minimum Standards for Indigent Criminal Appellate Defense Services – with which all assigned appellate attorneys, including SADO, must comply. Those standards have been in effect since February 1, 1982.

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 & B, "Organizational Chart" and "Position Descriptions"). Eight are full-time salaried employees (FTEs) and two are part-time contract employees.

- The Administrator, Deputy Administrator and Associate Administrator (currently vacant), 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 (currently vacant).

DEVELOPMENTS IN 2002

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. 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 1 attorneys are restricted to the simpler types of cases and those with lower maximum sentences. Only Level 3 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 continuing legal education (CLE) each year. Those who 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.

In 2002, the Appellate Defender Commission amended the Regulations to better insure that roster attorneys continuing eligibility is periodically reviewed by the MAACS Administrator. Roster attorneys must now re-apply to be retained on the roster every three years. The Administrator, based on a review of the renewal application and the applicant's work on prior felony appeals, and the assessment of any supplementary materials, then notifies the re-applicant whether he/she will be retained at Level 1, 2 or 3 or not retained for good cause or for administrative reasons. An attorney who is not retained has the right to appeal the Administrator's decision to the Commission.

The initial re-application process took place between September 1 - October 31, 2002. Many attorneys did not re-apply to be retained (58); others were not retained (4); some were retained at a lower level at their own request (2); and others were retained at a lower level not of their own choosing (5).

As of December 31, 2002, there were 160 attorneys on the statewide roster:

72 at Level 1
51 at Level 2
37 at Level 3

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 given 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.¹ 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 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 and 2001. By December 31, 2001, 56 of the state’s 57 circuits were participating. The final circuit (the 13th) came on-line in June, 2002 and the system is now 100% operational.

This 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, obtains 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.

¹MAACS 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 1 cases; 25% of Level 2 cases; and 33⅓% of Level 3 cases.

b. Statistics

In 2002, appellate counsel was assigned in 3226 cases (each original order is counted as one case, regardless of subsequent substitutions of counsel). This figure represents slight increases over the 3076 assignments in 2001². Of the total, 880 cases (27.3%) were assigned to SADO.

The distribution of assignments by case type and level appears in the following chart.³ Level 1 includes appeals from plea-based and bench-trial-based convictions with statutory maximum sentences up to 10 years and from jury trial-based convictions with maximum sentences up to 5 years. Level 2 includes appeals from plea-based and bench trial-based convictions with maximum sentences over 10 years, and jury trial appeals with sentences between 5 and 15 years. Level 3 includes appeals from jury-trial-based convictions with statutory maximums over 15 years. The “plea” categories include probation violation hearings and resentencings.

2002 APPELLATE ASSIGNMENTS

	Total No. Percent of Grand Total	SADO No. Percent of Grand Total	SADO Percent of Total Case Type
Level 1 Total	1243 38.5%	284 32.3%	22.8%
Level 2 Total	1372 42.5%	374 42.5%	27.3%
Level 3 Total	594 18.4%	209 23.8%	35.2%
Prosecution Appeals of Dismissals	13 0.4%	9 1.0%	69.2%
Miscellaneous	4 0.1%	4 0.5%	100%
GRAND TOTAL	3226	880	27.3%

² A chart summarizing the annual assignments from 1986 - 2002, including SADO's numbers and percentages, is attached as Appendix C.

³ A more complete chart for 2002 appellate assignments, which includes breakdowns for case types at each level, is attached as Appendix D. Another chart, which lists the 2002 assignments for each circuit court by case level and type, is attached as Appendix E.

3. **Improving Attorney Performance.** MAACS uses three methods to improve the quality of representation roster attorneys provide to their indigent clients. MAACS:

- Provides training programs, reference materials, and update memos, as well as one-on-one assistance in individual cases.
- Reviews in-depth the work of each attorney seeking to be classified at Level 2 or 3.
- Resolves allegations that roster members have violated the Minimum Standards.

a. **Training**

In 2002 MAACS provided training through diverse means. Two were funded by grants from the Michigan Commission on Law Enforcement Standards (formerly the Michigan Justice Training Commission).

- **Reference Manual**

In June 2002, MAACS published the second edition of “Pleadings and Their Usage in Michigan Criminal Appellate Practice”, authored by United States Magistrate Judge R. Steven Whalen, a former MAACS roster attorney. Judge Whalen made extensive revisions to the original 1992 edition. The manual contains forms, sample pleadings, use notes and filing instructions for practicing criminal law in Michigan’s trial and appellate courts. The use notes provide to practitioners a wealth of practical information in clear, simple language that answer many of the questions practitioners and defendants have the first time they must draft a particular pleading. Taken together, the use notes amount to a short course on Michigan criminal appellate practice.

- **Training Seminars**

In September/October 2002 MAACS presented its live training to 115 attorneys in four separate locations around the state: “Criminal Appellate Practice Refresher: Current Problems and Perspectives.”

Experienced practitioners from MAACS and SADO lectured on key topics of importance to appellate counsel including standards of review and harmless error, motions for relief from judgment and federal habeas corpus practice. Court of Appeals clerks provided tips on motion practice in that Court. Department of Corrections managers led an informative presentation on what every criminal defense attorney should know about the DOC. Finally, MAACS administrators offered updates and breaking news on current events in appellate defense. The programs were well-attended and received consistent “Excellent” evaluations from the attendees.

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 2002. 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 2 or 3 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.

In 2002, beyond any reclassifications occurring during the re-application process, one roster attorney was reclassified (from Level 2 to 3). This attorney had completed the requisite number of appeals (18) within the previous three years, per Reg. 4(2). After a review was conducted, the request was approved. Another former Level 3 attorney, who had been off the roster for five years, was permitted to rejoin at Level 2. Two other attorneys who requested upward reclassification were denied (one from Level 1 to 2 and the other from Level 2 to 3).

Four non-roster attorneys also asked to join the roster at Level 2 or 3 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 one attorney to join at Level 2, as requested, per MAACS’ recommendation;
- To deny three attorneys request to join at either Level 2 or 3, 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 2002, MAACS resolved 31 formal complaints involving 26 different roster attorneys, 13 of whom are no longer on the roster. In 81% of the cases (25 of 31), 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 six of these 25 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 2002, 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.

ANNUAL REPORT OF THE STATE APPELLATE DEFENDER OFFICE FOR JANUARY 1, 2002 THROUGH DECEMBER 31, 2002

Over the years, two of the most important functions of the Appellate Defender Commission have been balancing SADO's workload with its funded capacity and allocating the caseload and workload between SADO and the roster attorneys in the Michigan Appellate 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 between SADO and private assigned counsel is most often necessary when SADO is assigned more cases than it has capacity to handle. To address this issue, the Commission has employed several strategies in its attempts 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 1992. This growth placed enormous strain on the entire appellate system – courts, court reporters, prosecution and defense alike. During this period of growth, the state faced numerous budget crises and budget cuts, and SADO's budget was reduced on several occasions. An additional stress was the Court of Appeal's delay reduction policies that included significant reductions in time or elimination of motions to extend time to file the appellant's brief. Failure to file timely resulted in potential forfeiture or waiver of meritorious issues and personal cost assessments on the attorneys handling the cases.

From time to time these pressures have forced the Commission to reduce SADO's case intake pursuant to its statutory mandate to "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." [MCL 780.716 ...]. When its workload exceeds its case-handling capacity, the Commission has closed the office to new assignments for periods necessary to match the caseload with the resources. While this method reduced the assignments in gross over a year period, it failed to offer predictability in the processing of appeals. Because of the unevenness caused by periodic closings, the Commission also has reduced the percentage of cases SADO intakes to below 25% to accommodate for assignments over capacity.

MANAGING SADO'S STATE FUNDED RESOURCES/WORKLOAD

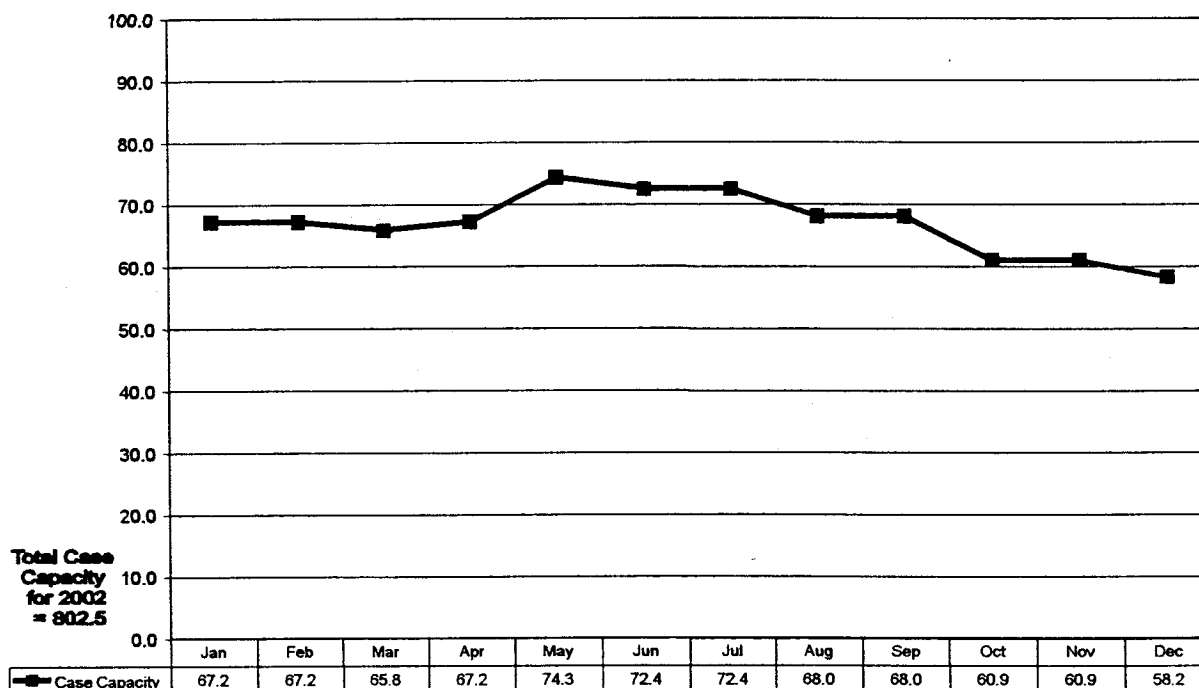
ASSIGNMENT LEVELS

Throughout 2002, the formula for cases assigned to SADO was 20% of Level 1, 25% of Level 2, and 33.3% of Level 3. The formula is designed to provide SADO with a larger quantity of the more complex Level 3 cases, while trying to average 25% of the total appellate assignments for the state. Based on 2002 year-end data, overall SADO received 26.8% of the total appellate assignments – 22.6% or 281 Level 1 cases, 27.0% or 372 Level 2 cases, and 35.0% or 208 Level 3 cases.

Although SADO's assignment level for 2002 was approximately 25%, its capacity to handle the cases it receives is largely based on the number of staff attorneys it employs. Due to budget cuts and staff reductions, in 2002 SADO did not have the capacity to handle the 861 cases it received. Figure 1 below indicates that SADO's capacity for 2002 was 802.5, consequently, SADO finished the year with an overload of 58.5 cases more than it had the capacity to handle.

Figure 1

SADO's Capacity¹ for 2002



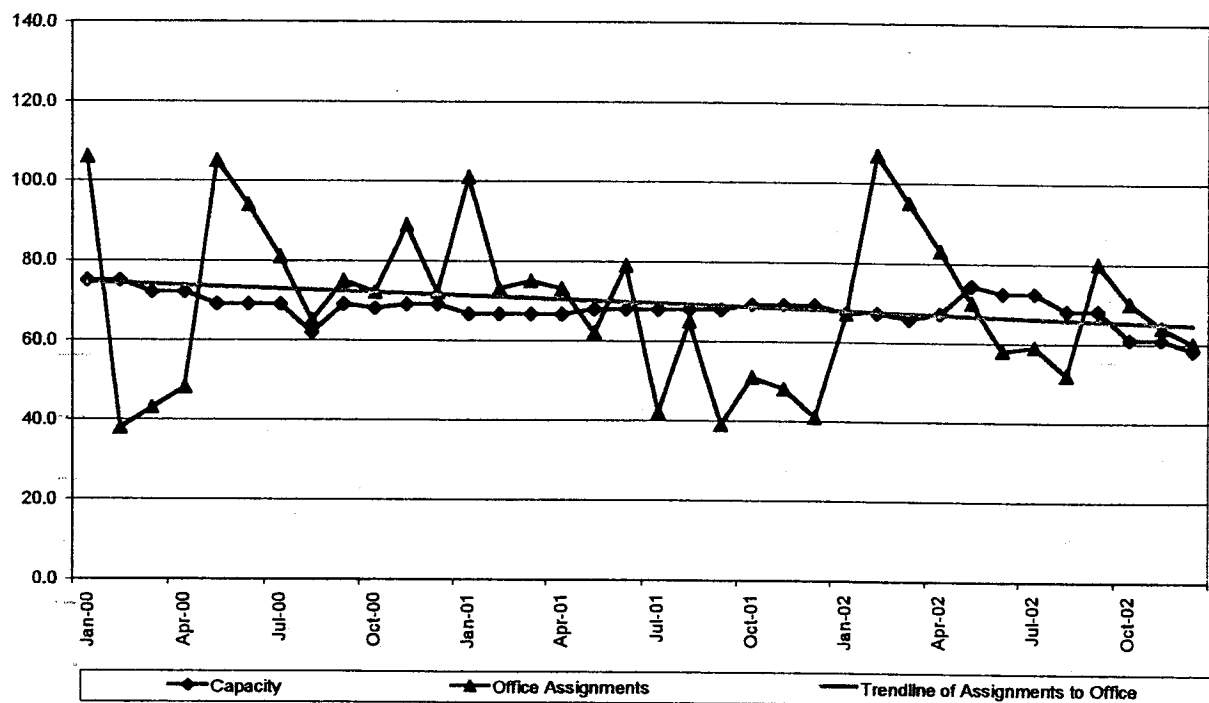
¹ Capacity is the cumulative total of new cases all SADO attorneys can accept per month under established differential case weighting standards.

SADO's ability to process cases is also significantly affected throughout the year by the fluctuations in assignment levels. Figure 2 tracks the assignments to SADO over three calendar years and parts of three budget years. This tracking over several years reveals fluctuations in monthly assignments and the overall trend of the workload that one year "snap shots" may not readily reveal.

As can be seen, while the overall yearly percentage of assignments averaged close to the 25% of the overall assignments, the peaks and valleys are severe when tracked against the office capacity month to month. These widely disparate rates per month severely hinder the ability to file timely because the transcript filing, which triggers the timing deadlines in the Court of Appeals, occurs in bunches, thus making many cases due at the same time. The research, client visits, investigation, writing and editing of the brief must be completed in a large number of cases within very rigid timing deadlines in the Court of Appeals. The Commission continues its vigilant work to resolve this workload problem.

Figure 2

Capacity vs. Office Assignments²
For 2000 through 2002



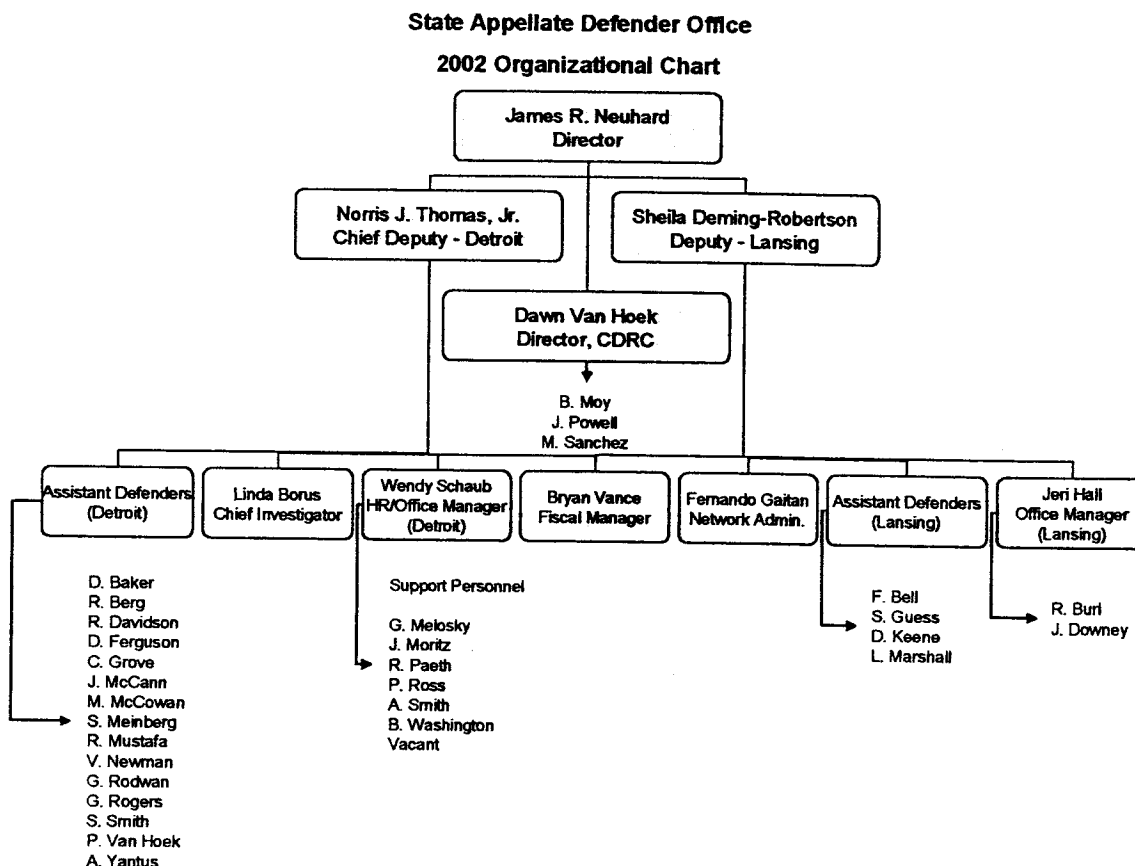
² Assignments to the Office are cases assigned by the circuit courts to SADO either directly or by order of the appellate courts.

SADO STAFFING AND DIRECT CLIENT SERVICES

Due to a budget cut and the early retirement of employees it was not permitted to replace, SADO reduced the size of its staff in 2002 from 44 to 39 full-time employees by eliminating three attorney positions, one support staff position, and one investigative assistant position. By the end of 2002, the Director, Chief Deputy Director, 15 Assistant Defenders and the Criminal Defense Resource Director were housed in the Detroit (main) office; and the Deputy Director and four Assistant Defenders were located in the Lansing office. One Paralegal, one Paralegal/Secretary, four Legal Secretaries, and the Chief Investigator directly supported the legal staff. The Office Managers in the Detroit and Lansing offices, Fiscal Manager, Network Administrator, Webmaster, Administrative Assistants, Clerk, and Receptionist assisted the administration and provided secondary support to the legal staff.

In December of 2002, two more Assistant Defenders announced they would be retiring one month later. Because of the state's budget constraints, the inability to replace these retirees would cause a further reduction in the size of SADO's staff and a further decrease in the office's capacity. Below is an organizational chart that illustrates the composition of SADO's staff by the end of 2002.

Figure 3



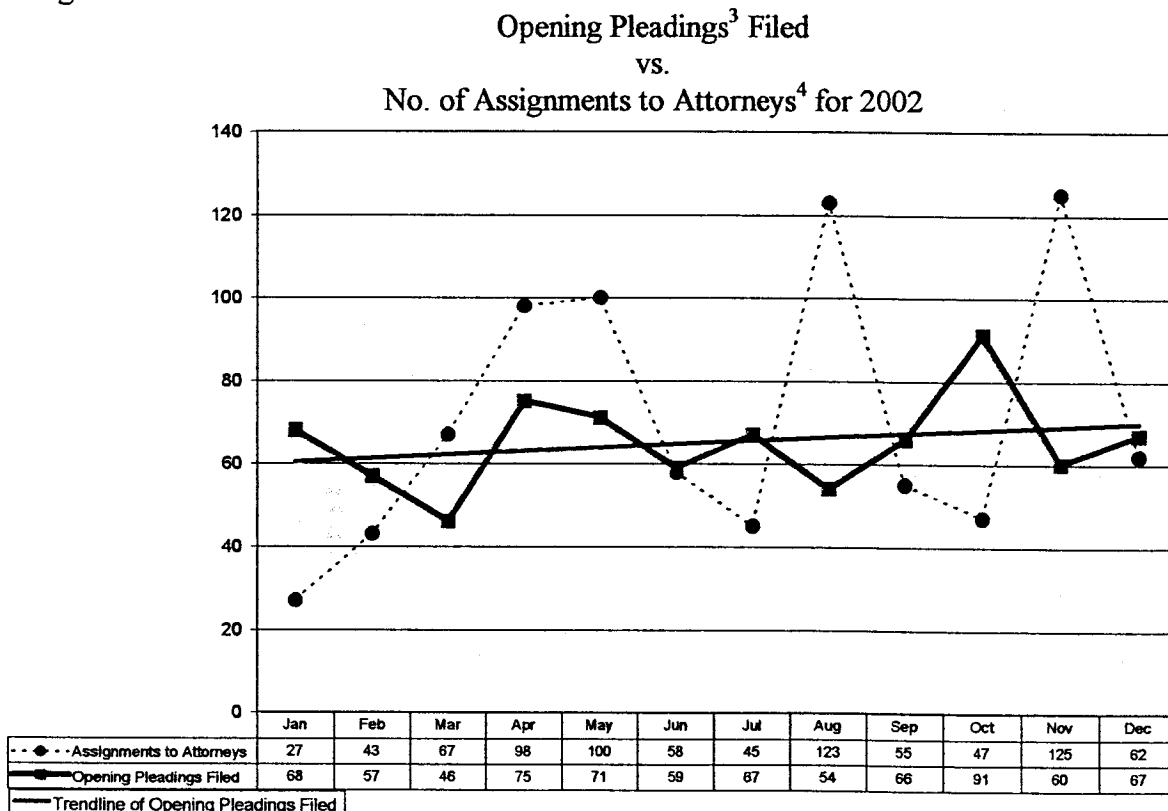
Two SADO lawyers were housed at and received secretarial/clerical and legal research support from the University of Michigan Law School while teaching the Criminal Appellate Practice Course. Two others taught the other SADO-established Criminal Appellate Practice Course at the Wayne State University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

PRODUCTIVITY

In 2002, SADO Assistant and Deputy Defenders were assigned 949 cases and produced 2,489 filings, 898 of which were opening pleadings (Brief on Appeal or Motion for New Trial or Resentencing with a supporting brief). (See Table III, page 3 of the Appendix)

Figure 4 tracks the opening pleading. This pleading meets the filing deadlines the case might have by either filing in a court or closing the case through dismissal of the appeal (See Table VIII, page 10 of the Appendix).

Figure 4



³ 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.

⁴ Assignments to Attorney – when a SADO staff attorney takes responsibility for a case assigned to SADO

Filings in the Court of Appeals are the most critical, because late Court of Appeals filings may have penalties assessed, including cost assessments against the attorney, remand and assignment of a new attorney, resulting in further delays to the client and expense to the system, or loss of oral arguments in the case. Figure 4 essentially tracks actual attorney intake and output. Differential case management and case weighting standards determine maximum attorney and overall office intake capacity. These sophisticated management and measuring tools are designed to achieve the operational goal of matching output to intake.

SPECIAL UNIT FOR PLEAS AND EARLY RELEASES (PLEA UNIT)

Because of the large number of pleas assigned to the office, in the early 1980's SADO developed a Special Unit to process plea-based appeals and trial-based appeals with short sentences, where early action was required to avoid loss of potential sentencing relief. This differential case management allowed the Unit attorneys to handle over 50% more clients and cases than attorneys handling randomly mixed caseloads. This in turn allowed the office to increase its case-handling average from generally suggested standards of 25 to 30 cases per staff attorney to 48.7 cases per staff attorney in 2002 (see Table III, page 3 of the Appendix).

The Unit increases its efficiency not only through specialization, but also with increased client confidence in the judgment of the attorneys on the merits and risk/benefits analysis in the appeal. After Unit attorneys review the file, conduct research and fact investigation, consult with and advise the client, their clients voluntarily dismiss between 38% and 42% of their cases.⁵ The Unit's overall relief rate⁶ exceeds 32%, with a relief rate of over 75% in the cases presented on the merits to trial courts. In 2002 there were only two full-time staff attorneys and the Unit Manager, who carried only a partial case load after being promoted to Deputy Director of the Lansing office after Martin Tieber's retirement. However, with special part-time assignment of a non-Unit attorney to work on plea appeals, the Unit was still able to handle 78% of the plea-based appeal assignments to attorneys.

The Unit Director and two attorneys in SADO's Special Unit for Pleas and Early Releases continue to expeditiously handle primarily non-trial-based (mostly plea) appeals. A 1994 amendment to the Michigan Constitution (Proposal B) and subsequent legislation limiting poor people's right to appointed counsel to appeal their guilty pleas and sentences continue to reduce the number of guilty plea appeals reaching the Court of Appeals. However, to date, there has only been a minimal reduction in the total number of assigned guilty plea appeals.

⁵ This percentage is quite significant, because voluntary dismissals markedly reduce work for the entire adjudicative system, since no pleadings are filed and, therefore, no oral argument or opinions are required.

⁶ On cases where relief is sought (excludes dismissals).

Figure 5

[illegible]

Over the past years, the Appellate Defender Commission has expanded or constricted SADO's caseload to reflect funding and staffing realities. SADO's principal goal at the start of 2002 was to handle as close to 25% of the total appellate assignments as resources would permit. Although SADO did suffer from a staff reduction in 2002, it was still able to process more than 25% of the appeals because the reduction was staggered mostly throughout the middle to end of the calendar year. Of particular note, even though SADO is chronically understaffed and under funded due to budget cuts, it still has never been removed from any case for want of prosecution under MCR 7.217(A) in spite of accepting 25% of the cases and absorbing the caseloads from the loss of twelve staff attorney positions.

Criminal Defense Resource Center 2002 Annual Report*

Primary Goals for 2002: Increase quantity of support to the private and public defender bar, increase access to services through the Web, continue training on web-based resources.

I. Overview of noteworthy accomplishments

The year 2002* marked the twenty-sixth year the Criminal Defense Resource Center (CDRC, formerly the Legal Resources Project) has served Michigan's criminal defense community with services essential to the competent practice of criminal law in Michigan. 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. 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 CDRC's 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 counsel might otherwise submit a bill.

CDRC operations were once again funded through a combination of SADO budgetary support, user fees, and grants from the Michigan Council on Law Enforcement Standards and the Bureau of Justice Assistance. User fees supported a portion of the costs of books, newsletters, copying, and operation of the SADO web site. Grants from the MCOLES supported a portion of the costs of books and direct training events. The grant from the Bureau of Justice Assistance funded the Attorney-to-Attorney Support Service operating statewide.

While operations are described below, several activities during 2002 are noteworthy:

- The "Attorney-to-Attorney" Support Service continued to grow in usage and statewide impact. The Service connects criminal defense attorneys with the CDRC's experienced research attorneys, working from two locations, providing legal research, advice, pleadings and training. Funded by a grant from the Department of Justice's Bureau of Justice Assistance, the Service was the top awardee following a nationwide competition. The 18-month, \$150,000 award, funded the six attorneys, all experienced private attorneys working one or two days per week, from either the main SADO office (e-mail and phone intake) or an office inside Wayne Circuit Court (in-person intake). This support service picked up from a gap lasting from October of 1999, when it was eliminated due to a state budget crisis, to resumption of the service in June of 2001 with federal grant funding. Before 1999, the service had been provided continuously for over twenty-three years, helping thousands of attorneys with matters of law and strategy. As a long-range goal, the CDRC is working toward state funding of this essential service.
- The CDRC's web databases grew significantly in content and value. The CDRC's web site was increasingly used as the state's main portal for criminal defense attorneys,

* Due to reporting methods based on a subscription year, the time period covered by this report is October 1, 2001 to September 30, 2002.

containing its own large research databases of unique material. No other Michigan-focused web site contains both trial and appellate pleadings, full text of practice manuals (the Defender Books), collections of witness testimony, and videos from actual training events; all CDRC databases are searchable and downloading of useful material is facilitated. One area of the site was targeted for development during 2002: "Practice Notes" draw materials from a variety of sources and organize them by topic, with CDRC research attorneys taking responsibility for their updating. A user wishing to know about public defense and attorney fees, for example, could go to a web page that lists organizations, new decisions, pleadings and many other materials: from the list, links take users directly to the primary resource, whether it is a video of training or analysis of a recent decision.

- New in 2002 was addition to the CDRC web site of Supreme Court applications and responses in leave cases, a collection otherwise unavailable to attorneys. Within days of any Michigan Supreme Court order granting leave in a criminal case, the CDRC not only summarizes the leave issues, but collects and posts the applications for leave and responses. These are provided through links from the case summary, allowing users to see the analysis made by the parties, and facilitating an understanding of the reasons for granting leave. It is especially important to the practicing bar, as it identifies issues that should be preserved through objection at trial or appellate argument.
- Delivery of certain publications in electronic form again increased during the year, advancing both timeliness and cost savings. The Criminal Defense Newsletter and the summaries of appellate decisions went out to nearly 650 subscribers to web services, delivered as attachments to e-mail messages.
- The first edition of the Defender Habeas Book was published. Written by expert attorneys David Moran and Amy Neville, the first edition provided criminal defense attorneys with virtually everything needed to preserve federal constitutional issues at the trial level, and present them effectively at the appellate level, including model pleadings.

II. Services Delivered by Mail, Phone, and In-Person

During the report period, the CDRC provided the following services by mail, phone, and in-person.

A. Criminal Defense Newsletter.

This near-monthly newsletter (eleven issues published) delivered an average thirty pages of essential information to approximately 1,200 subscribers electing to receive hard copy (nearly 650 chose the electronic version). Each issue contained a lead article providing in-depth analysis of a legal issue, news, announcements, a training calendar, practice notes, summaries of appellate decisions, news of pending and recently-passed legislation, and much more. An annual index issue provided a comprehensive listing of issues covered during the year.

B. Defender Trial, Sentencing and Post-Conviction, Motions 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 1900 pages of relevant information were delivered to users, covering developments through May of 2002. These three annually-updated looseleaf books contain well-organized summaries of the law on all aspects of criminal law and procedure, from arrest through appeal. In addition, the Defender Motions Book contains model pleadings (sample motions) that can be adapted for use in another case, as well as consulted as writing models. Summaries and analysis of case law, statutes, court rules and legal practice are also included. Users also receive a CD-ROM version of the books that contains the full text of any unpublished Court of Appeals decisions cited in the books. The books are installed on a user's own computer from the CD-ROM and bundled with a powerful search program that allows full-text search and retrieval of useful information. Asked in 2002 about how frequently they use the books, 15% of the users said daily, 55% said weekly, 25% said monthly and 5% said less than monthly. These results reflect heavy use, as in prior years. Approximately 60% said they use the books to browse a topic to learn the law, 74% used them to quickly identify a case, rule or statute, and 71% 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, 61% said they were indispensable, 36% said they were helpful. Many indicated that they found the CDROM version of the books extremely useful: 19% found them indispensable, and 77% found them helpful.

C. Defender Habeas Book.

The Habeas Book became part of the four-volume set of practice manuals published by SADO's CDRC. It contains detailed information about how and when to file habeas petitions in federal court, how to appeal adverse decisions or respond to the government's appeals, and how to preserve federal constitutional issues in state trial courts. Like the Defender Motions Book, the Defender Habeas Book contains sample pleadings that can be adapted for use in a particular case, as well as text discussing when and how to file them.

D. Attorney-to-Attorney Support Service.

Legal support for Michigan's criminal defense bar continued in the form of the federally-funded Attorney-to-Attorney Support Service. The Bureau of Justice Assistance (BJA) awarded \$150,000 for the 18-month project, one of the largest awards nationally. Six research attorneys were hired, trained and started work in June, 2001, working in the Detroit SADO office and an office located within the Wayne Circuit Court. As each research attorney also maintained a private law practice, each worked one or two days a week, making up a full time position in each office. Training time was minimized by this model, which took advantage of expertise the attorneys had already developed as active practitioners. Scheduling of work, work performed, and reporting were web-based and captured in databases. The

CDRC research attorneys handled intake through phone calls, e-mail messages and personal visitation, and generally responded within one day. They answered questions of law and procedure, providing citations, pleadings, and a sounding board for issues of strategy. During 2002, the research attorneys assisted 648 attorneys in nearly 2500 individual contacts. The Detroit SADO office handled primarily phone intake, coming from most counties in the state, while the Wayne Circuit Court office handled primarily in-person intake. Inquiries tended heavily toward trial issues, running about 3 to 1 on inquiries about appellate issues. An interim program report on the service is included with this report.

III. Services Delivered by the Web

A. Databases

The year 2002 saw steady and increasing use of the CDRC's web-based database resources, signifying that more and more attorneys realized the potential of performing online legal research. The databases available at www.sado.org included appellate and trial level pleadings, resumes of expert witnesses, full text of the Defender Books, full text of the Criminal Defense Newsletters, opinion summaries and full text of appellate court decisions, both state and selected federal, testimony of selected police witnesses, and much more. Several of the databases (particularly the Defender Books) were made available in "Palm" format, allowing attorneys to store full text of these resources on their handheld devices. The amount of information available to attorneys through the CDRC's site made it possible to minimize use of expensive fee-based alternatives (such as Westlaw or Lexis). 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 2002, content was added to both the public and subscriber-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. New for 2002 were additional videotaped training events of the Criminal Defense Attorneys of Michigan (CDAM). Video from selected events was edited and linked to written materials, making it possible to listen to a speaker and review related documents, such as the speaker's handout, or appellate decisions. This significant enhancement makes it possible to obtain training on an as needed, or as possible basis, facilitating continuing review of a topic as well. Among the video training topics posted to the site were sessions on racial profiling, sentencing issues and confessions, all hot topics of considerable interest to the bar.

The value of the site to users was demonstrated by the number of web site hits and user sessions, all of which continued to climb. The most revealing statistic tracked, user sessions, grew from approximately 17,000 per month to approximately 25,000 per month during the year.

B. E-mail Groups

(1) The Forum, an online discussion group for criminal defense attorneys

The CDRC continued to operate the Forum, the popular listserv for criminal defense attorneys. With approximately 650 members, the Forum proved a lively place to exchange ideas and information. Attorneys posed questions on topics ranging from particular judge's sentencing practices to the most recent grants of leave by the Michigan Supreme Court, often sharing their own pleadings or lending encouragement to a colleague. During the report period, usage of this technology averaged approximately 900 messages per month. As the Forum is not actively moderated, messages go out to the entire group as soon as sent by a member, no matter what time of day or night. Members are particularly active at night and on the weekends, reaching each other at times otherwise difficult by phone. Forum members often receive help from several other members, as well as from the CDRC research attorneys, who closely monitor Forum traffic. Graphs on Forum use appear in the appendix to this report.

(2) Electronic summaries of appellate decisions, Criminal Defense Newsletter

To save mailing costs and increase the timeliness of delivery, a shift from hard to electronic copy of appellate decision summaries was completed this year. Once a week, summaries of that week's appellate decisions were sent via e-mail to the 650 subscribers to the CDRC's web services. The summaries cover all criminal decisions of the Michigan Court of Appeals and Michigan Supreme Court, significant orders of those courts, selected unpublished Michigan Court of Appeals decisions, and selected decisions of Michigan's federal district courts, the Sixth Circuit Court of Appeals and the United States Supreme Court. Most of these summaries are linked to the full text of the decisions. Several hundred summaries were delivered through this listserv. The same 650 subscribers to web services also received electronic copy of each month's Criminal Defense Newsletter, again, long before it would otherwise arrive by "snail mail."

IV. Direct Training Events

With funding support from the Michigan Council on Law Enforcement Standards, 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 three hours long, reaching a total of 240 trainees. The average size of the group trained was ten, 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. Increased use of the CDRC's web site is largely attributable to this direct training, as well.

Evaluations of the direct training events showed their great value to practicing attorneys. Surveys revealed that nearly 75% of trainees increased their use of the Web for legal research after receiving the training. Asked how often they use the Web for legal research, 13.6% said daily, 37.5% said three times a week, 28.4% said once a week, 19.3% said rarely, and 1.1% said not at all. Asked how often they include the CDRC site in a research session, nearly 60% said that they use it most or every time they research. Trainees also were asked how much research time was saved by using the CDRC online databases: 28.6% said more than 10 hours monthly, 33.3% said between 5 and 10 hours monthly, and 30.9% 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, a majority of those responding said that they had contacted SADO's Webmaster for assistance, with virtually all indicating that he was "very helpful."

V. Sharing with the Legal Services Community

The CDRC continued in 2002 to share its resources and expertise with others, including particularly Michigan's legal services community. Staff continued to participate in the State Bar of Michigan's Technology Task Force, a large group 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 2002, 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 continued the hosting of its web site. Similar services were provided to the Detroit Metropolitan Bar Association.

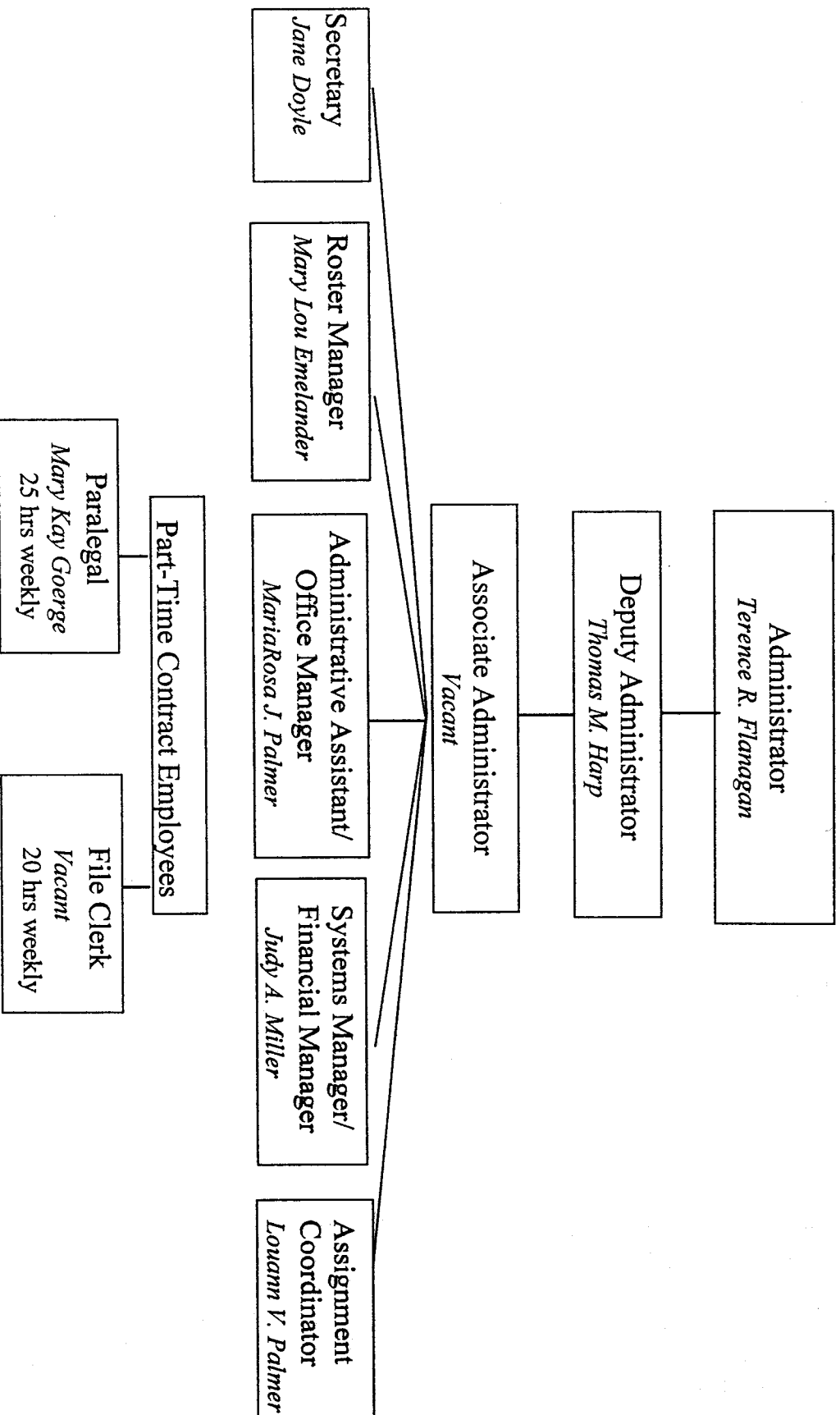
The CDRC's success in serving the appointed criminal defense bar is largely due to its relationship with a fully-functional law office, the State Appellate Defender Office. CDRC staff interacts constantly with SADO's practicing attorneys, developing expertise on substantive issues. The CDRC's databases, 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.

APPENDICES

MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

December, 2002

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. Screens all and processes some complaints about roster attorney performance. Acts as the Attorney Grievance Commission liaison and monitors changes in Court of Appeals rules and procedures. Processes, with Deputy, attorney reclassifications. Answers roster attorney questions.

DEPUTY ADMINISTRATOR

Processes most complaints about roster attorney performance and conducts major investigations. Troubleshoots case-related problems. Answers roster attorney questions. Writes grant requests and coordinates training programs. Processes, with Administrator, attorney reclassifications. Handles file closing questions.

ASSOCIATE ADMINISTRATOR (VACANT)

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

SYSTEMS/FINANCIAL MANAGER

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

ASSIGNMENT COORDINATOR

Posts trial court appointment and payment voucher data to computer. Opens new case files. Responds to questions from trial court personnel. Back-up on phones. Assists in filing.

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. Backup on phones. Assists in filing.

ADMINISTRATIVE ASSISTANT/OFFICE MANAGER

Processes personnel changes and payroll. Handles building issues and is liaison with landlord. 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. Backup on phones. Assists in filing.

SECRETARY

Typist for 2 attorneys. Maintains general office files, answers phones (primary), sorts and distributes mail, closes files. Assists in filing.

PARALEGAL

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

FILE CLERK (VACANT)

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

APPELLATE ASSIGNMENTS
1986 - 2002

	TOTAL	MAACS NUMBER	SADO NUMBER	SADO PERCENTAGE
1986	3627	2872	755	20.8%
1987	3831	2991	840	21.9%
1988	4230	3341	889	21.0%
1989	5224	4135	1089	20.8%
1990	5550	4616	934	16.8%
1991	5297	4443	854	16.1%
1992	6469	5454	1015	15.7%
1993	5927	4974	953	16.1%
1994	5047	4130	917	18.2%
1995	4763	3926	837	17.6%
1996	4287	3524	763	17.8%
1997	4080	3248	832	20.4%
1998	3983	3035	948	23.8%
1999	3362	2586	776	23.1%
2000	3396	2474	922	27.2%
2001	3076	2291	785	25.5%
2002	3226	2346	880	27.3%

APPELLATE ASSIGNMENTS
JANUARY 1, 2002 TO DECEMBER 31, 2002

	Total No. --- Percent of <u>Grand Total</u>	SADO No. --- Percent of <u>SADO Total</u>	SADO Percent of Total <u>Case Type</u>
<u>Level I</u>			
Plea/PV/Resentencing	981 30.4%	213 24.2%	21.7%
Waiver Trial/INT/6.5/PPO Evidentiary Hearing	99 3.1%	22 2.5%	22.2%
Jury Trial	163 5.1%	49 5.6%	30.1%
Level I Total	1243 38.5%	284 32.3%	22.8%
<u>Level II</u>			
Plea/PV/Resentencing	1050 32.5%	278 31.6%	26.5%
Waiver Trial/INT/6.5/PPO Evidentiary Hearing	139 4.3%	38 4.3%	27.3%
Jury Trial	183 5.7%	58 6.6%	31.7%
Level II Total	1372 42.5%	374 42.5%	27.3%
<u>Level III</u>			
Jury Trial	594 18.4%	209 23.8%	35.2%
Level III Total	594 18.4%	209 23.8%	35.2%
Prosecution Appeals of Dismissals	13 0.4%	9 1.0%	69.2%
Miscellaneous	4 0.1%	4 0.5%	100.0%
GRAND TOTAL	3226	880	27.3%

**2002 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	3		
														Total
1st Hillsdale	0	0	0	17	3	20	0	0	0	0	0	2	2	22
2nd Berrien	0	0	0	9	4	13	0	0	0	3	3	7	13	26
3rd Wayne	3	0	13	202	308	510	98	99	197	64	44	252	360	1083
4th Jackson	0	0	0	38	18	56	1	4	5	6	3	11	20	81
5th Barry	0	0	0	7	5	12	0	0	0	0	0	3	3	15
6th Oakland	0	0	0	67	178	245	2	9	11	17	29	79	125	381
7th Genesee	0	0	0	114	104	218	0	1	1	3	2	23	28	247
8th Ionia/Montcalm	0	0	0	2	3	5	0	0	0	3	4	3	10	15
9th Kalamazoo	0	0	0	3	7	10	1	3	4	0	3	13	16	30
10th Saginaw	0	0	0	0	5	5	1	1	2	5	7	28	40	47
11th Alger/Luce Schoolcraft	0	0	0	0	0	0	0	0	0	1	3	1	5	5

2002 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	3		Total
12th Baraga/Houghton/ Keweenaw	0	0	0	2	2	4	0	0	0	0	0	0	0	4
13th Antrim/Grand Traverse/Leelanau	0	0	0	22	18	40	0	0	0	0	1	1	5	47
14th Muskegon	0	0	0	45	69	114	0	1	1	0	7	10	17	132
15th Branch	0	0	0	0	0	0	0	2	2	1	0	1	2	4
16th Macomb	0	0	0	95	81	176	0	4	4	8	6	22	36	216
17th Kent	0	0	0	9	11	20	3	4	7	3	10	28	41	68
18th Bay	1	0	0	25	18	43	0	0	0	3	0	5	8	52
19th Benzie/Manistee	0	0	0	7	0	7	0	0	0	1	1	0	2	9
20th Ottawa	0	0	0	0	1	1	0	0	0	1	2	3	6	7
21st Isabella	0	0	0	16	7	23	0	0	0	0	1	0	1	24

**2002 MAACS STATISTICS
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	Grand Total	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
22nd Washtenaw	58	0	0	0	24	13	37	0	1	1	6	5	9	20	58
23rd Iosco/Oscoda	7	0	0	0	2	0	2	0	0	0	2	1	2	5	7
24th Sanilac	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
25th Marquette	5	0	0	0	3	2	5	0	0	0	0	0	0	0	5
26th Alcona/Alpena/ Montmorency/ Presque lise	2	0	0	0	0	1	1	0	0	0	0	1	0	1	2
27th Newaygo/Oceana	11	0	0	0	4	7	11	0	0	0	0	0	0	0	11
28th Missaukee/Wexford	12	0	0	0	7	3	10	0	0	0	1	1	0	2	12
29th Clinton/Gratiot	20	0	0	0	13	2	15	0	0	0	2	2	1	5	20
30th Ingham	121	0	0	0	52	43	95	0	0	0	5	4	17	26	121
31st St. Clair	46	0	0	0	18	10	28	0	0	0	2	8	8	18	46

2002 MAAGS 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	3		
														Total
32nd Gogebic/Ontongaon	0	0	0	0	0	0	0	0	0	0	0	0	0	
33rd Charlevoix	0	0	0	4	2	6	0	0	0	1	1	2	4	10
34th Arenac/Ogemaw Roscommon	0	0	0	1	4	5	0	0	0	1	2	1	4	9
35th Shiawassee	0	0	0	2	1	3	0	0	0	0	1	3	4	7
36th Van Buren	0	0	0	1	0	1	0	1	1	1	0	2	3	5
37th Calhoun	0	0	0	44	31	75	0	0	0	9	6	10	25	100
38th Monroe	0	0	0	14	12	26	0	1	1	1	2	6	9	36
39th Lenawee	0	0	0	9	4	13	0	0	0	2	0	2	4	17
40th Lapeer	0	0	0	0	0	0	0	0	0	0	2	0	2	2
41st Dickinson/Iron Menominee	0	0	0	4	4	8	0	0	0	1	0	1	2	10

2002 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	3				
												Total	Total		Total
42nd Midland	0	0	0	0	16	8	24	0	0	0	1	4	3	8	32
43rd Cass	0	0	0	0	10	5	15	0	0	0	2	0	1	3	18
44th Livingston	0	0	0	0	13	9	22	0	0	0	0	3	3	6	28
45th St. Joseph	0	0	0	0	4	2	6	0	1	1	0	1	7	8	15
46th Crawford/Kalkaska Otsego	0	0	0	0	10	6	16	0	0	0	0	3	4	7	23
47th Delta	0	0	0	0	3	3	6	0	0	0	2	2	1	5	11
48th Allegan	0	0	0	0	0	7	7	0	0	0	0	4	0	4	11
49th Mecosta/Osceola	0	0	0	0	3	7	10	0	0	0	0	0	2	2	12
50th Chippewa/Mackinac	0	0	0	0	6	1	7	0	0	0	0	0	1	1	8
51st Lake/Mason	0	0	0	0	7	3	10	0	0	0	1	0	1	2	12

2002 MAAC 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	3	
52nd Huron	0	0	0	0	0	0	0	1	1	0	0	0	1
53rd Cheboygan	0	0	0	1	0	1	0	0	0	0	0	0	1
54th Tuscola	0	0	0	2	4	6	0	0	0	0	1	3	10
55th Clare/Gladwin	0	0	0	2	1	3	0	0	0	0	0	3	6
56th Eaton	0	0	0	20	9	29	0	0	0	2	2	4	37
57th Emmet	0	0	0	3	3	6	0	0	0	1	0	1	8
ALL CIRCUITS	4	0	13	982	1049	2031	106	133	239	163	182	594	3226
TOTALS	0.1%		0.4%	30.4%	32.5%	63.0%	3.3%	4.1%	7.4%	5.1%	5.6%	18.4%	29.1%
Level 1	1251	39.0%											
Level 2	1364	42.5%											
Level 3	594	18.5%											
Total	3209												

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APPENDICES

STATE APPELLATE DEFENDER OFFICE

TABLE I
STATE APPELLATE DEFENDER OFFICE ANNUAL REPORT
FOR THE YEAR OF 2002

Total New Appointments to SADO 1/1/02 to 12/31/02	939
Total Cases Assigned to Staff Attorneys 1/1/02 to 12/31/02	949
Total Filings by SADO 1/1/02 to 12/31/02	2489
Cases Closed (not Done*) 1/1/02 to 12/31/02	26
Cases Officially Closed (Done*) 1/1/02 to 12/31/02	996
Total Cases Closed 1/1/02 to 12/31/02 (Clarify. One would this #would be>than above 996 looking at this language)	765
Total Cases Open as of 12/31/02	1904

- "Done" are those cases that are officially closed by the attorney and the file sent to storage.

TABLE II
STATE APPELLATE DEFENDER OFFICE ANNUAL REPORT
FOR THE YEAR OF 2002

SADO FILINGS 1/1/02 to 12/31/02

Trial Court	664
Court of Appeals	1,482
Supreme Court	314
Federal Courts	29
Total FILINGS	2,489

MAJOR FILINGS 1/1/02 to 12/31/02

Trial Court	611
Court of Appeals	678
Supreme Court	289
Federal Courts	7
Total MAJOR FILINGS	1585 = 64% of all filings

SADO APPOINTMENTS BY CASE TYPE 1/1/02 to 12/31/02

Pleas	458
Probation Violation Pleas	47
Jury Trials	327
Bench Trials	56
Probation Violation Trials	12
Prosecutor Appeals	18
Resentencing	9
Leave Granted – SADO	0
Leave Granted – OTHER	0
SC Application – OTHER	2
Specials	10
Total ASSIGNMENTS	939*

* Again, this 939 cases assignment total differs from MAACS' 880 total because SADO must count cases differently than MAACS to take workload into account. See comments to Table IV.

TABLE III
CASE ACTIVITY AND WORKLOAD

YEAR	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	2.08	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
2001	20.5	839	964	47	2,817	137.4	2.92	927	1,688	82.34	1.75
2002	19.5	939	949	48.7	2489	127.6	2.62	898	1585	81.28	1.67

• 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 in 1997, it simultaneously reduced the number of assignments to regular staff attorneys by two (2) weighted work units, due to the reduced briefing time in the Court of Appeals and the penalties that court personally imposes on staff attorneys who file untimely.

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

TABLE IV
SADO'S PERCENT OF COMPLEX (LEVEL III JURY TRIAL APPEALS)
APPELLATE ASSIGNMENTS 1993-2002
AS COUNTED BY MAACS

	GRAND TOTAL	SADO'S PERCENT* OF GRAND TOTAL*	LEVEL III CASES PERCENT OF TOTAL	SADO'S PERCENT OF LEVEL III CASES
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	3393	917 27.0%	533 15.7%	242 45.4%
2001	3076	785 25.5%	549 17.9%	177 32.2%
2002	3217	861 26.8%	595 18.5%	208 24.2%

- 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 or none of the work. The "new" attorney, no matter how much work was done by the previous attorney, must still do a significant amount of work, client visits, read the transcripts and court records, and review all pleadings in the case to correct any deficiencies and 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 and "special" appeals (e.g., mandamus, superintending control), not all of which are sent to MAACS for inclusion in the total number.

TABLE V
ASSIGNMENT OF CASES BY TYPE

YEAR	PLEAS	TRIALS	BENCH	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
2001	457 (54%)	308 (37%)	69 (8%)	5 (1%)	839
2002	515 (55%)	346 (37%)	56 (6%)	22 (2%)	939

- Bracket = Percentage of total assignments

** Parenthesis = Number of Proposal B Cases (i.e. plea appeals after the 1994 constitutional amendment eliminating appeal by right from plea convictions.)

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

TABLE VI
SUBSTITUTION APPOINTMENTS

YEAR	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
2001	839	92
2002	939	105

- Many of these cases are problematic. They often involve alleged ineffective assistance of private counsel, or MAACS, court or Grievance Commission removal of prior counsel. Many involve unmanageable clients (some going through several trial and appellate attorneys) and/or very complex issues. Sometimes private counsel are simply underpaid and/or overwhelmed by these cases and withdraw because of personal or economic hardship.

TABLE VII
SADO OVERALL RELIEF RATES* 1993-2002

	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
2001	656	513 (78.2%)	114 (17.38%)	29 (4.42%)	21.8
2002	618	500 (81%)	95 (15.37%)	23 (3.72%)	19.09

- Cases where relief sought – excludes dismissals, death, cases closed without litigation and withdrawals. MAACS' analysis of a 5.6% random sampling of 5,255 post conviction cases assigned in 1990 (including SADO appointments) produced the following results in the 93% of the cases that had reached disposition by October 1993: (It's time to delete old text and chart and rewrite this part. E.g., the most recent published analysis of post-conviction relief rates, done by MAACS in 1993, when there was still an appeal of right in plea cases found relief granted in 12.4% of plea appeals and 17.2% of trial appeals, for a combined rate of 14.2%)

<u>TOTAL</u>	<u>AFFIRMED</u>	<u>DISMISSED</u>	<u>RELIEF</u>
Pleas (N=185)	87 (47.0%)	75 (40.5%)	23 (12.4%)
Trials (N=103)	73 (70.9%)	12 (11.7%)	18 (17.5%)
Total (N=288)	160 (55.6%)	87 (30.2%)	41 (14.2%)

Nationally reported appellate relief rates in criminal and civil cases e rates in the 10-20% range. The relief rate in assigned Michigan plea appeals decided by trial and appellate courts on the merits was 21%.

Source: A Decade of Challenges, Report of the Michigan Appellate Assigned Counsel System April 1985 – April 1995, pp. 20-21, updated for brief in People v Bulger, 462 Mich 495 (2000).

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.

**TABLE VIII
DISMISSALS AND WITHDRAWALS**

YEAR	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%)
2001	968	247 (26%)	52 (5%)
2002	923	250 (27%)	34 (4%)

- 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 prosecutors, and, thus, conserves scarce justice system resources. SADO does not use the non-consensual, laborious, and time-consuming appeal withdrawal procedure required by United State Supreme Court ruling in Anders v California, 386 US 738 (1967). See also, MCR 7.211©(5) (Michigan's so-called "Anders" procedure. SADO's dismissals and withdrawals are all voluntary. Counseling clients on voluntary dismissals prevents many from pursuing unnecessary, time-consuming and potentially harmful appeals.

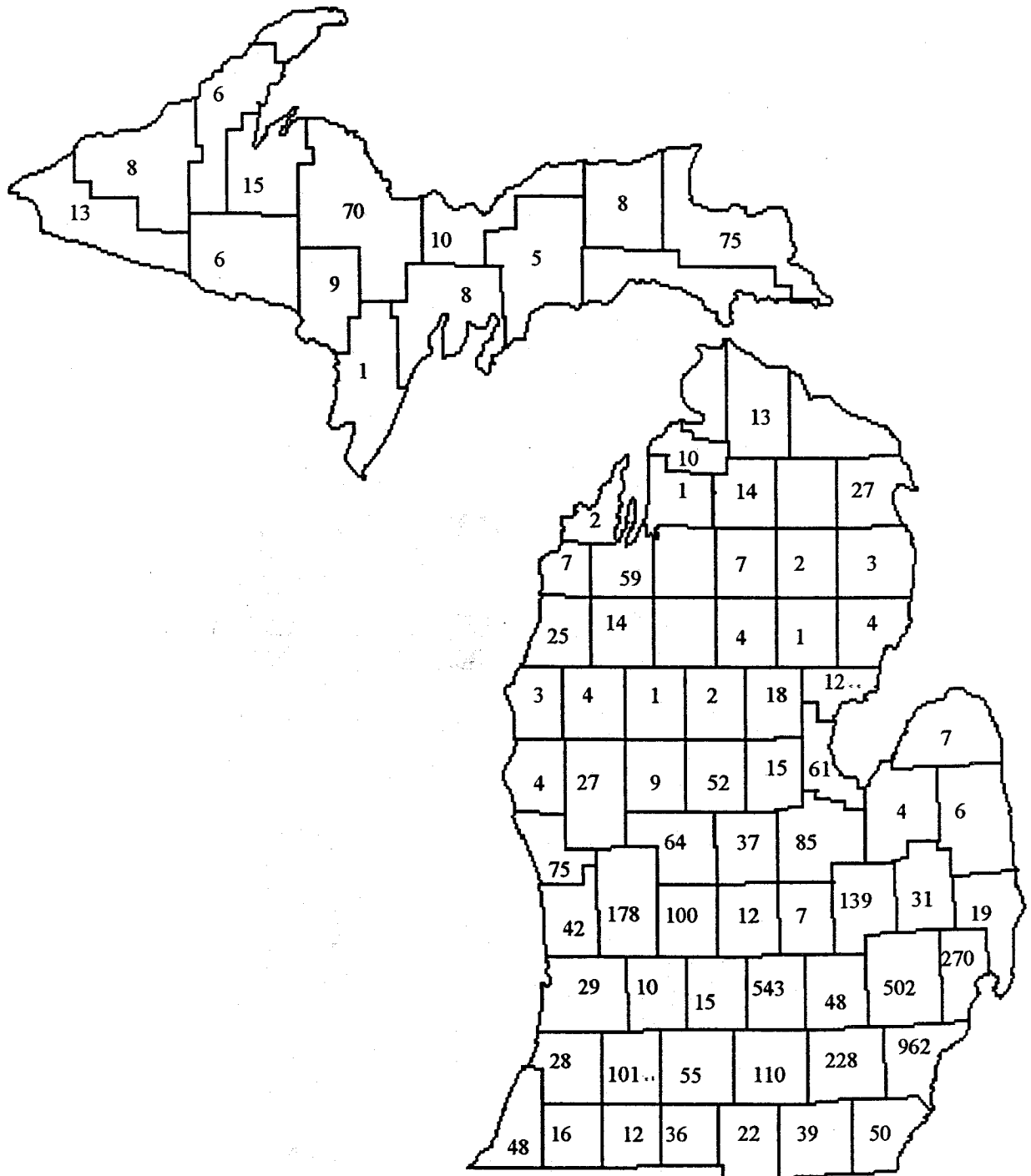
- ** Withdrawal can occur before any substantial work is done, for example, in known conflict of interests cases, or at any point thereafter, even after full briefing and oral argument. None of these withdrawals is for overload.

APPENDICES

CRIMINAL DEFENSE RESOURCE CENTER

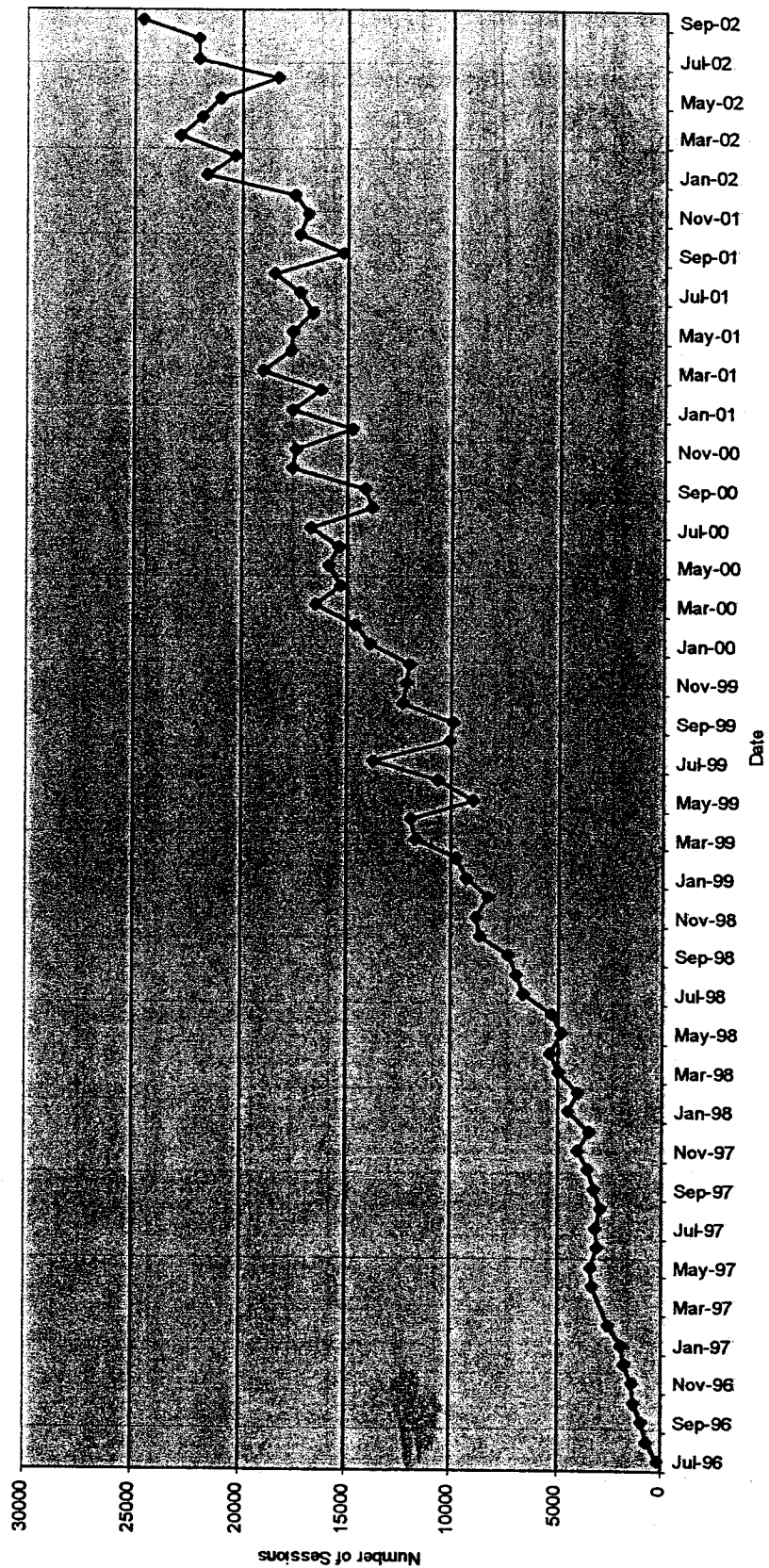
Geographic Representation of Subscriptions to Project Services⁷

October 1, 2001 - September 30, 2002

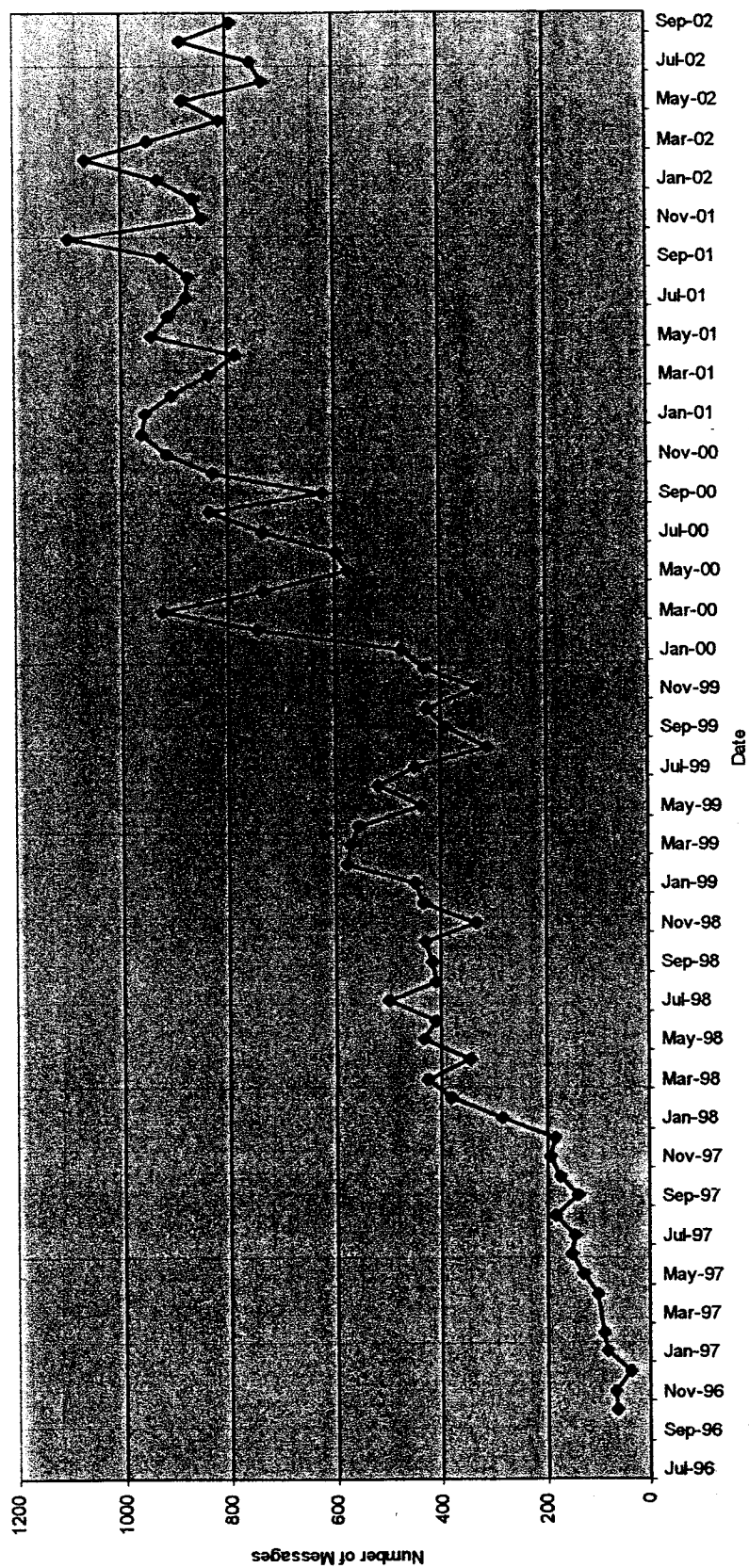


⁷ Each number represents a subscription to the Defender Books, Criminal Defense Newsletter or Web Services.

Total User Sessions, CDRC Web Site



Forum Messages



**Forum Messages by Day of Week
October, 2001 – September, 2002**

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
October, 2001	43	192	264	213	180	155	52
November, 2001	49	141	142	233	179	189	77
December, 2001	58	132	125	184	167	138	60
January, 2002	28	119	178	210	189	167	41
February, 2002	53	166	199	213	197	181	59
March, 2002	45	112	147	191	214	164	78
April, 2002	49	170	191	139	127	107	30
May, 2002	38	118	113	199	199	163	53
June, 2002	56	137	120	151	141	86	40
July, 2002	23	133	190	204	95	88	20
August, 2002	32	115	165	165	177	174	57
September, 2002	31	135	176	156	151	118	26
Totals	505	1670	2010	2258	2016	1730	593
Total Messages Sent	10782						

Attorney-to-Attorney Support Service

Categorical Assistance Progress Report FY 1999 Open Solicitation Grant Program July 1, 2002 - December 31, 2002

**State Appellate Defender Office
#2001DDBX0026**

A. Project Status

Staffing. The project remained fully staffed by six contract research attorneys during the reporting period. Each provided one or two days of assistance per week, in either of the project's two locations. Due to the number of contractors involved, and use of the web for scheduling, it was generally possible to fill in scheduling gaps created by sickness or vacations. Both locations were staffed on a nearly full-time basis.

Location. The project's locations remained open as planned in the grant application. One location is within the State Appellate Defender Office's Detroit office, the host agency providing representation in approximately 25% of Michigan's indigent appeals. Research attorneys in this location serve attorneys statewide. The second location is within the Wayne County Circuit Court's Frank Murphy Hall of Justice, the busiest criminal court in Michigan. Research attorneys in this location serve attorneys practicing in this court.

Operations. Operations began in both locations in June, 2001. During that month, attorneys were trained and reporting programs were fine-tuned. Announcements regarding the "Attorney-to-Attorney" were made, statewide. Intake began via phone calls, e-mail, and person-to-person contact. Since that time, the following are the principal operational milestones:

July, 2001 Announcements of service appear statewide and in Wayne Circuit Court, and intake increases. Open House hosted in courthouse location.

Project staff meet to fine-tune procedures.

Aug., 2001 Announcements made in statewide newsletter and on SADO listserv (the "Forum"). Database operation and remote computer access refined. Project staff hold meeting.

Sept., 2001 Project staff train 250 Wayne County assigned counsel at CAP program, explaining project operations.

Oct., 2001 Project staff meet, announcements continue in newsletter and listserv.

Nov., 2001 Major presentation at conference of Criminal Defense Attorneys of Michigan, reaching approx. 300 criminal defense attorneys.

Dec., 2001	Project staff meet, continue to refine intake and work-sharing between locations.
Jan., 2002	Survey mailed to all users of service. Database reports compiled and analyzed. Announcement to all Michigan circuit and district court judges.
Feb., 2002	Major presentation at conference of Criminal Defense Attorneys of Michigan, reaching approx. 300 criminal defense attorneys.
March, 2002	Project staff meet, solve problems and consider ways to improve service. User survey results compiled.
April, 2002	Three noontime seminars presented at courthouse location, training attorneys on computer/web legal research and writing.
May, 2002	Project-staff meet, discuss results of user surveys.
June, 2002	Service promoted to trainees attending statewide seminars on web-based legal research and writing. Research attorneys take responsibility for web pages containing resources relating to certain legal issues, a product of frequent - questions from those using the service.. Titled "Practice Notes," the pages collect information, links, documents and more that are commonly distributed to callers.
July-Sept 2002	Numerous seminars throughout the state provide opportunities to inform attorneys about the service, as John Powell trains on web-based legal research.
Oct., 2002	Major presentation at conference of Criminal Defense Attorneys of Michigan, reaching approx. 300 criminal defense attorneys.

Project Time Line. The original project time line provided for a finish date reached 18 months after start-up, assuming full staffing in both locations. A slight extension in that time line was needed since some weeks finish with less than full-time staffing (full time amounts to a weekly total of 80 hours, between the two locations). Also, an extension was made possible by reallocation of the project's supplies budget to staffing needs (with the sponsoring agency, SADO, picking up the supplies expense). The project director consulted with BJA staff and received approval of the adjustment. The additional money for staffing will allow extension of the project until September, 2003, at a reduced service level. The reduced service level is planned to "bridge the gap" between grant funding and state funding for the service (see "Plans to Sustain Project," below).

Collaboration. Collaborative efforts continue with the original partners, the Wayne County Circuit Court, Recorder's Court Bar Association (now the Wayne County Criminal Defense Bar Association), and Criminal Advocacy Program. The project's director has negotiated space within the Wayne Circuit Courthouse, with the Court also contributing an Internet connection and telephone. The Recorder's Court Bar has contributed equipment (computers and a printer), and a portion of the space within the courthouse. The Criminal Advocacy Program devoted one of its fall seminars to the topic of web-based legal research, and the project's services were highlighted. Additional collaboration has occurred with the Criminal Defense Attorneys of Michigan, which conducts training events for attorneys twice a year: announcements about the service were made at the November, 2001 event, and were repeated in February, 2002 and October, 2002.

Plans to Sustain Project. The project director is making every effort to secure state funding of the project after federal funding ends, and added the Attorney to Attorney Support Service to a budget request for the sponsoring agency (SADO) for fiscal year 2003-2004. That funding is unlikely, in light of a state budget crisis that is expected to continue well into that fiscal year. The director also requested funding from the Michigan Council on Law Enforcement Standards (MCOLES) as part of an umbrella Defense Training Grant for 2003. This funding request was denied by MCOLES in December, 2002, due to intense competition for funds and a determination that the project did not qualify as "training." In addition, the director is exploring the possibility of continued federal funding, either through another Open Solicitation process or earmarked funds.

The project will be sustained beyond its original end date of January, 2003, due to "bridge" funding from two sources. The first is the grant adjustment applying supplies to staffing, within this grant, discussed above. The second is an award of \$27,000 from the Michigan State Bar Foundation.. This Foundation emphasized that its award is one-time only, intended as bridge funding. The "bridge" made possibly through these two means is not a complete one, as it provides less than half the amount currently allocated each month, if spread out from January 1, 2003 to October 1, 2003 (start of state fiscal year). Rather than spend the money quickly, at full staffing levels and leaving a gap in service during the summer of 2003, a decision was made to reduce the service level by half, allowing it to operate until the beginning of the state fiscal year (October, 2003). Starting January of 2003, project staff alternate between the two service locations, with one office staffed each day of the week. If state funding is obtained for fiscal year 2003-2004, there would be no gap in service.

Technical Assistance Needs. The project director has discussed technical assistance with both the project manager and evaluation technical assistance provider, and does not believe that technical assistance is needed at this time. The host agency (SADO) has provided technical support, and the data collection/reporting process is functioning well at this time. A suggestion made by the Senior Research Scientist assigned to the project was incorporated into data collection, and allows even greater analysis of project impact.

B. Goals and Intended Outcomes.

Saving time and money for assigned counsel, and improving the quality of defense representation, throughout the State of Michigan. The two goals identified in the grant application are equally, served by the project's activities, as well as nearly inseparable. Criminal defense attorneys accepting assignments contact the project's research attorneys when they do not already have the answer to a legal question, or when they do not have research materials or pleadings on a given topic. Virtually every contact with the grant-funded service saves time and money, while improving the quality of the work done- for a-client. The project responded to 1386 requests for assistance during the report period, through research attorneys working at the two project locations. Reports compiled for the period reveal that support is being given in all of the anticipated subject areas, from trial, through sentencing and appeal. Good geographic spread also has been established, and many users take advantage of e-mail to communicate their needs.

The user survey conducted in early 2002 provided considerable feedback on whether the project is saving time and money for users, and whether the quality of defense representation is positively affected. Asked about how much research time was saved by using the service, respondents replied:

6.1%	saved more than 100 hours
14.3%	saved 50 to 100 hours
67.3%	saved 1 to 50 hours
4.1%	saved no time

Asked about impact on quality of representation, respondents replied:

2.9%	major positive impact
49%	some positive impact
3.1%	no impact
0%	negative impact

Project staff has met regularly during the six-month report period, and have revised intake procedures and manuals. A very useful by-product of the service also was launched during early 2002: practice notes are prepared and maintained on the web by the project's research attorneys, who draw on the questions posed by users of the service. Announcements about the support service are made regularly, as planned, in printed media (newsletters), in a popular e-mail discussion group (listserv), at seminars, and on the host agency's heavily-used web site, www.sado.org.

C. Data Collection.

Hours of Service Availability. The project's services have been available for all of the hours anticipated, with minor exceptions. In the Detroit SADO office, a research attorney is available between 9:00 a.m. and 5:00 p.m., from Monday through Thursday; in the Frank Murphy Hall of Justice office, a research attorney is

available between 8:00 a.m. and 4:00 p.m., from Monday through Friday. These are normal business hours for the communities served. Altogether, research attorneys provided approximately 1510 hours of support services during the report's six-month time frame.

Number of Research Attorneys. During the six-month report period, the project was fully staffed at six research attorneys.

Additional Data. A separately attached report, drawn from the project's database, collects the additional data requested:

- number of contacts with service;
- number of attorneys using service;
- method of contact;
- nature of presenting issues; and solutions provided, in summary form.

Qualitative Outcomes. A number of qualitative outcomes also have been requested, including:

- changes in time required for research by assigned counsel;
- changes in accuracy in legal advice, documentation, courtroom performance; and
- changes in quality of client representation.

Very positive outcomes were revealed by the user survey conducted in early 2002. A majority of attorney users said that they saved research time, and that the service had a positive impact on the quality of the representation offered to clients. In particular, 76.5% said that they reduced research time, 58.2% said that they improved the quality of research, and 45.9% said that they improved the result for the client. Detailed survey results were provided as an attachment to the previous interim report.

This survey will be repeated in early 2003.

D. System Changes and/or Program Effects.

It is expected that the project will improve the criminal justice system in two primary ways; first, by helping criminal defense attorneys to improve the quality of their client representation and second, by helping criminal defense attorneys to save time spent on legal research. With the support of the project, defense attorneys can ' save court time and ' resources otherwise wasted when legal errors occur, errors which often necessitate retrials or continuances. Defense attorneys are able to provide accurate and timely answers to the legal questions that arise in a criminal case, with the project's support. That empowerment makes it easier for courts to reach just decisions on pre-trial motions or trial evidentiary rulings, makes it easier for prosecutors to depend on the accuracy of a legal position taken by the defense, and also makes it easier for clients to evaluate the

value of plea bargains or defenses. These outcomes are difficult to measure, but survey results and anecdotal feedback show that attorneys greatly value the support they receive. Significantly, virtually all (99%) wish to continue using the service.

Other Information.

Courthouse seminars. While they were not funded by the grant, courthouse seminars were presented on the subjects of computer tips for word processing and web-based legal research. The noontime sessions focused on questions commonly posed by attorneys using the service, and were both well-attended and appreciated. A summary of subjects covered in the seminars were attached to the previous interim report.

Anecdotal feedback. Examples of anecdotal feedback received from users of the service from July 1 to December 31, 2002 include the following:

- "BTW, you guys do a great job down there! Keep up the good work!"
- "In these times of so little reward, you have no idea how much your regards are appreciated. Thank you for helping to make what we do worthwhile."
- "I have been very favorably impressed with all of SADO's resources - they have been very helpful to me, and I am awestruck at the intelligence, commitment and knowledge of everyone at SADO."
- "To be serious for a moment at a time when the rest of the United States is taking a sojourn to celebrate turkey weekend I would like to take this opportunity to thank you for all of the help you continuously give to me and I am sure others."
- "It is very comforting to know that whether it be a time of calm, which occurs seldomly or crisis which is the norm you are available to give help. Sometimes it is to act as a sounding board, sometimes a recent case and sometimes an entire brief. In any event I want to thank you."
- "Thank you for the small brief. Judge told me to file a motion to quash. He said he considers it a case of well timed discipline and was sort of upset with the prosecutor."
- "And the earlier compliment was just the truth. I wish I had 10% of your talent for hiring good people (not to mention directing and keeping them)."
- "I forgot to thank you for pointing me in the direction of the 28 day *misdemeanor rule*. I really appreciate your fine work! Thanks!!"
- "Thank you for your prompt response. It was of great help in discussing this with my Client this morning."
- "Can you say, "Motion to suppress granted"? That's okay if you can't, Judge

Brown said it yesterday. He agreed that the affidavit for the search warrant did not have any information about the anonymous tippers and that getting the search warrant to arrest the guy with a bench warrant out against him was just a pretext to get into my client's room."

- "Thank you very much for the timely response - the work you guys / gals are doing over there is greatly appreciated. I think a regular visit during the normal hours will accomplish everything I need."

Federal Grant Report
Attorney-to-Attorney Support Service
July 1, 2001 through September 30, 2002

1. Number of contacts with service

Total	SADO	FMHJ
3266	1476	1790

2. Number of attorneys using service:

Total	SADO	FMHJ
2671	1125	1546

3. Number of individuals using service:

Total	Attorneys	Non-Attorneys
1112	719	393

4. Method of contact:

	SADO	FMHJ
E-mail	342	339
Telephone	946	127
In-Person	104	1274
Mail	9	0
Other	75	50

5. Nature of presenting issues:

Total	SADO	FMHJ
Trial	560	850
Appellate	379	159
Plea	35	42
Sentencing	155	182
Web	18	14
Software	0	0
Forum	67	88
Research	82	101
Other	180	354

6. Geographical spread of research provided:

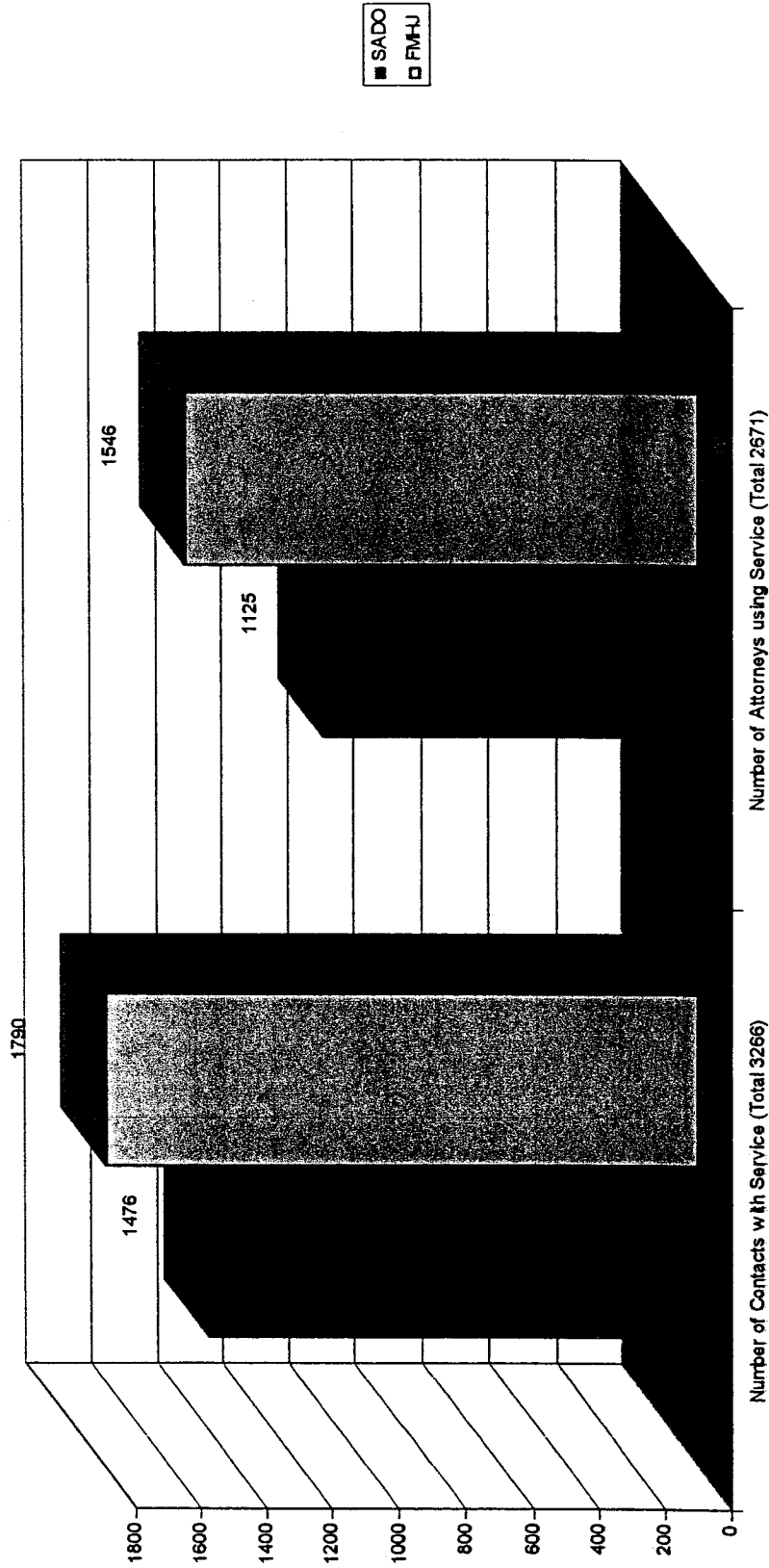
County	No. of Requests		
ALGER	6	JACKSON	7
ALPENA	1	KALAMAZOO	31
ARENAC	5	KENT	35
BARAGA	1	LAKE	1
BARRY	4	LEELANAU	6
BAY	16	LENAAWEE	3
BENZIE	12	LIVINGSTON	2
BERRIEN	4	LUCE	5
BRANCH	3	MACOMB	210
CALHOUN	9	MANISTEE	4
CASS	2	MARQUETTE	24
CHARLEVOIX	1	MECOSTA	8
CHEBOYGAN	1	MENOMINEE	4
CHIPPEWA	4	MIDLAND	1
CLARE	5	MONROE	12
CRAWFORD	3	MONTCALM	3
DELTA	9	MUSKEGON	9
DICKINSON	4	NEWAYGO	1
EATON	5	OAKLAND	509
EMMET	2	ONTONAGON	2
GENESEE	20	OTSEGO	1
GOGEBIC	2	OTTAWA	8
GRAND TRAVERSE	11	ROSCOMMON	4
GRATIOT	1	SAGINAW	16
HILLSDALE	3	ST. CLAIR	4
HURON	12	ST. JOSEPH	1
INGHAM	62	VAN BUREN	6
IONIA	2	WASHTENAW	63
IRON	1	WAYNE	1578
ISABELLA	13	WEXFORD	7

6. Nature of solutions provided: *

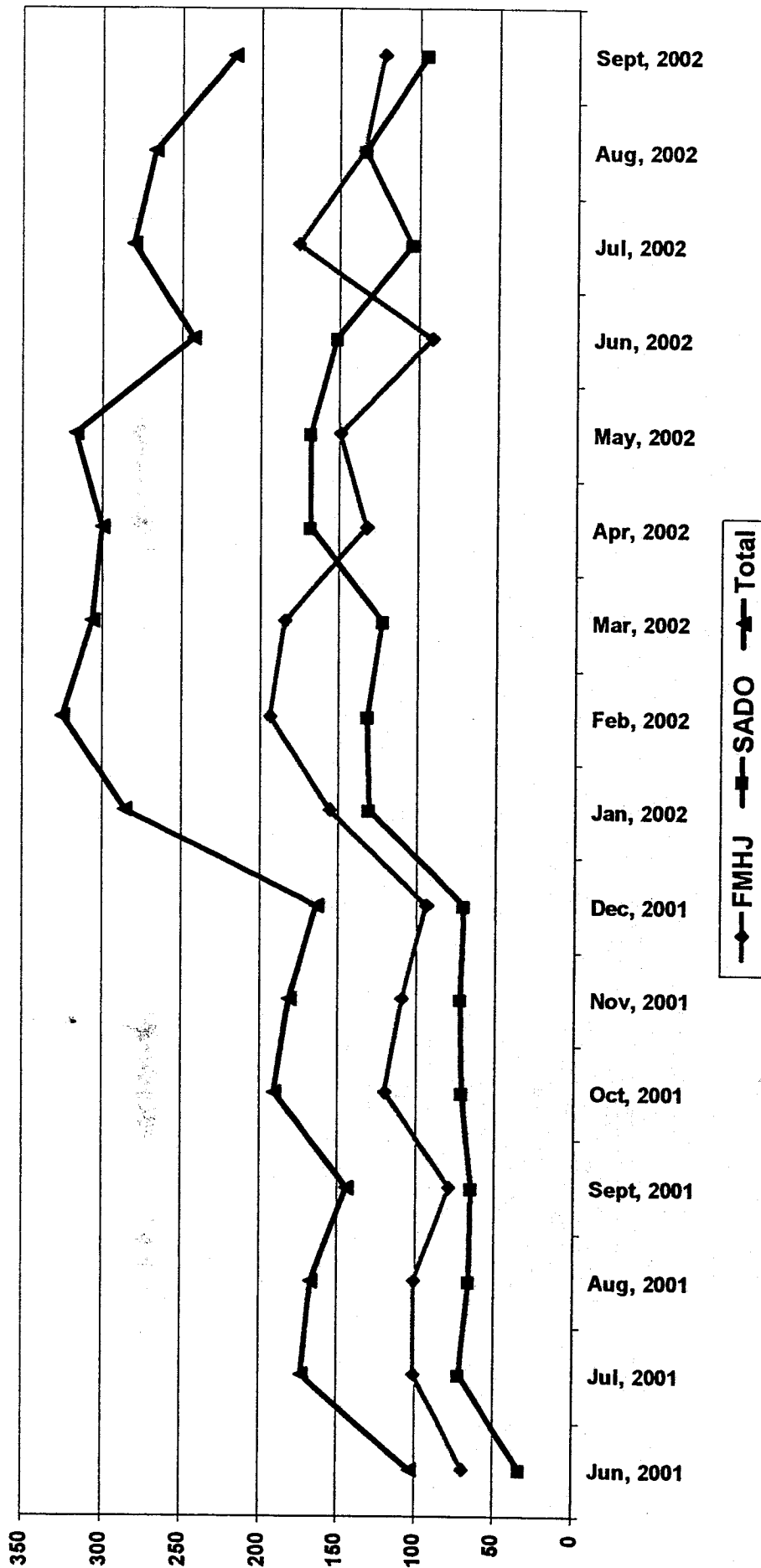
Identify/discuss legal issues:	731
Discuss strategy	388
Discuss procedure	216
Provide pleadings (from our databases, including packets)	291
Provide legal research (including citations & experts)	1797
Train on web research	182
Troubleshoot technical problem	55
Provide forms (other sources, SCAO, CJI)	28
Referral to another agency or attorney	155
Other	115

* some contacts involve solutions in two categories.

1. Number of Contacts with Service
2. Number of Attorneys using Service
(July 1, 2001 - September 30, 2002)



Number of Contacts Per Month



E-mail Contacts

