



# APPELLATE DEFENDER COMMISSION

## 2005 ANNUAL REPORT

For the  
STATE APPELLATE DEFENDER OFFICE  
and  
MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

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### 2005 APPELLATE DEFENDER COMMISSION

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Honorable Robert A. Benson, Vice-Chair  
Michigan Judges Association Designee

Michael J Bryanton  
Governor's Designee

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State Bar Designee

James R. Neuhard, Director  
**State Appellate Defender Office**

Thomas Harp, Administrator  
**Michigan Appellate Assigned Counsel System**

# APPELLATE DEFENDER COMMISSION

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JOHN E. S. SCOTT  
STATE BAR DESIGNEE  
DETROIT

The Appellate Defender Commission is pleased to submit the 2005 Annual Report for the State Appellate Defender Office and the Michigan Appellate Assigned Counsel System.

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

Thank you for the opportunity to submit our 2005 Annual Report. For additional information, please feel free to contact Thomas Harp, Administrator of the Michigan Appellate Assigned Counsel System, James R. Neuhard, Director of the State Appellate Defender Office, or myself.

Sincerely,

Robert A. Benson, Chair  
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).

**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. And correlatively, 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:** 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

### GOALS

- Handle no less than 25% of the assigned indigent criminal appeals.
- Provide high-quality, timely, effective appellate defense 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.
- Reduce cost to counties (which pay for all appeals handled by private assigned counsel) by changing case allocation formula to assign SADO more costly, complex Level 3 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

## MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM GOALS and OBJECTIVES

To ensure that criminal appeal and post-conviction 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 the MAACS minimum performance standards when representing their clients.

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## HISTORY AND GOVERNANCE

The Appellate Defender Act, 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 Act directed the Commission to:

- Develop a system of indigent appellate defense services, which shall include services provided by the State Appellate Defender Office (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)

After a series of public hearings, 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. It promulgated regulations governing the system for appointment of counsel and minimum standards for indigent criminal appellate defense representation, which were approved by the Supreme Court in Administrative Order 1981-7. 412 Mich lxv (1981).

The Michigan Appellate Assigned Counsel System (MAACS) administers the assignment of all cases and the roster of private assigned appellate counsel. The State Appellate Defender Office (SADO) staff attorneys are state-funded and handle about 25% of the total appellate assignments. The remaining 75% are handled by MAACS roster attorneys, who are appointed and paid by the counties.

Both organizations are governed by a seven-member Commission appointed by the Governor. Six Commissions 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 2005 Commissioners were: **Oliver C. Mitchell, Jr.** (Chairperson), *State Bar designee*; **Honorable Robert A. Benson** (Vice-Chair), *Michigan Judges Association designee*; **John E.S. Scott**, *State Bar designee*; **Allan S. Falk**, *Court of Appeals designee*; **Ernest J. Essad Jr.** and **Donald E. Martin**, *Supreme Court designees*; and **Michael J. Bryanton**, *Governor's designee*.

The State Appellate Defender Office maintains a web site at [www.sado.org](http://www.sado.org). In addition to the extensive resources for practicing criminal defense attorneys, and the enormous amount of other justice-related material available at this site, biographies of the current Commissioners are also there.

## STATE APPELLATE DEFENDER OFFICE

SADO was created in 1969 under a grant awarded the Michigan Supreme Court by the Law Enforcement Assistance Administration (LEAA), pursuant to which, the Supreme Court established the Appellate Defender Commission in Administrative Order 1970-1 and charged it to provide high-quality, cost-efficient legal representation of indigent criminal defendants in post-conviction matters.

The Appellate Defender Act, 1978 PA 620, MCL 780.711 et seq., formally established SADO in 1979. Among its many other activities, the Act authorizes SADO to appeal felony convictions or conduct other post conviction remedies in cases assigned by a court and to provide “services necessary for a complete appellate review or appropriate post conviction remedy.” MCL 780.7169(a)-(b). It cannot voluntarily accept cases, nor handle general civil lawsuits or sue the Department of Corrections (except, technically, in collateral criminal appeal matters, such as federal habeas corpus and state mandamus to compel compliance with laws affecting appeals).

The Appellate Defender Act requires that SADO be assigned no less than 25% of all indigent criminal appeals, but limits the total cases the office accepts to “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)). Given the vagaries of funding and number of appeals, the Appellate Defender Commission must vigilantly monitor the overall assignment rate and the projected number of appeals for any given year to assure a proper match of SADO’s case intake to its resources.

The principal office of SADO is at 645 Griswold, Suite 3300, Detroit, MI 48226. A branch office is located in Lansing, Michigan. In addition, the office runs criminal appellate practice clinics at the University of Michigan Law School, Wayne State University Law School, and the University of Detroit Mercy Law School. Lansing-based Defenders serve as adjuncts at the Cooley Law School.

SADO’s Criminal Defense Resource Center 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, a complete web-based version of its printed products with full-text search capabilities of SADO brief bank and additional support and training materials, and phone and legal information support for its staff attorneys and several thousand assigned counsel throughout the state.

SADO Director James R. Neuhard and Chief Deputy Director Norris J. Thomas are in the Detroit office. Deputy Director Dawn Van Hoek manages the Lansing office as well as directing the Criminal Defense Resource Center.

## **MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM**

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 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).

The offices of MAACS are located at 1375 S. Washington Ave; Suite 300, Lansing, MI 48913. The MAACS Administrator is Thomas M. Harp; Deputy Administrator is Lyle N. Marshall. An Associate Administrator position remained vacant in 2005.



# ANNUAL REPORT OF THE STATE APPELLATE DEFENDER OFFICE FOR JANUARY 1, 2005 THROUGH DECEMBER 31, 2005

Two of the most important functions of the Appellate Defender Commission (ADC) have been balancing SADO's workload with its funded capacity and allocating the complete criminal appellate 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.

Proper 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. The ADC has employed several strategies to meet the courts' timing and quality demands, SADO resource availability, the counties' needs, and availability of MAACS-qualified appellate counsel.

From time to time caseload increases or budget decreases have forced the ADC 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(c) ...]. 2005 proved to be a particularly eventful year. In June of 2005 the United States Supreme Court decided *Halbert v. Michigan*, \_\_\_ U.S. \_\_\_; 125 S.Ct. 2582; 162 L.Ed.2d 552 (2005). This case held unconstitutional Michigan's statutes that denied defendants who pled guilty their right to counsel on appeal. As a result, the rate of appeals increased over 50%. As a direct result, SADO was forced to reduce its percentage of plea appeals from 25% of the cases down to 10%.

## MANAGING SADO'S STATE FUNDED RESOURCES/WORKLOAD

### ASSIGNMENT LEVELS

As the year began, the formula for cases assigned to SADO was at 5% across all levels until mid-February. This lower formula helped SADO process a backlog from the previous year. In mid-February, the formula was adjusted up to 15% across all levels. At that time, SADO's projected capacity for the year did not allow for a larger increase because SADO did not have the staff to handle more than approximately 15% of the projected appellate assignments for the year.

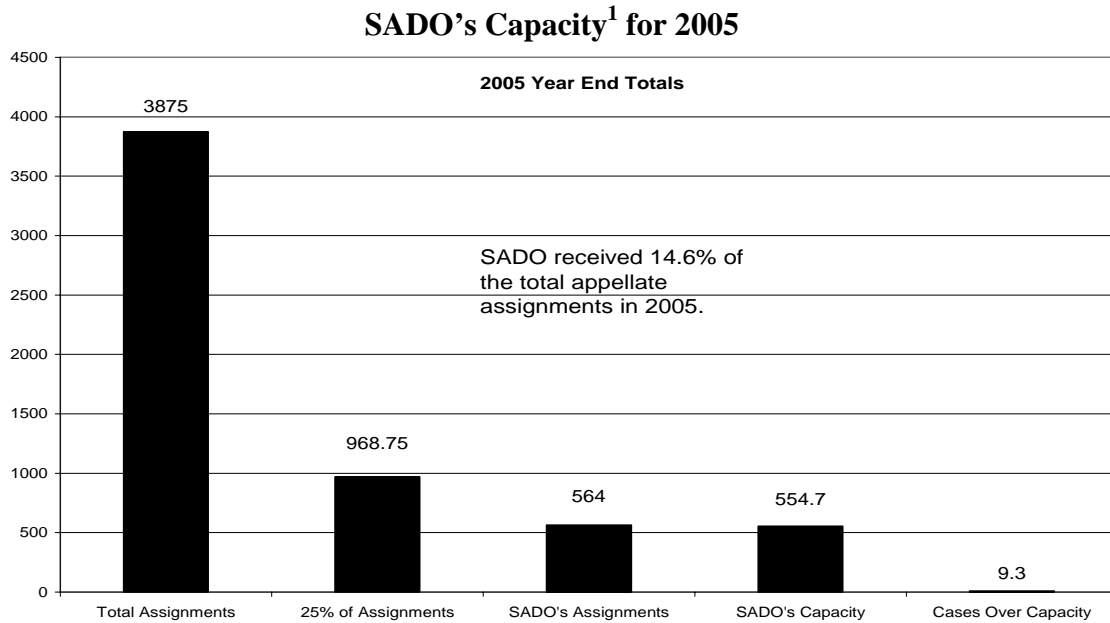
On June 23, 2005, the United States Supreme Court decided *Halbert v. Michigan*, \_\_ US \_\_ 125 S Ct 2582; \_\_L Ed 2d\_\_(2005). The United States Supreme Court determined that the Due Process and Equal Protection Clauses require the appointment of counsel for defendants convicted by plea who seek access to first-tier review in the Michigan Court of Appeals. A state may not "bolt the door to equal justice" to indigent defendants. CL 770.3a. *People v. Harris*, 470 Mich. 882 (2004); *People v. Bulger*, 462 Mich. 495, 511 (2000). This decision greatly increased the number of plea assignments for the remainder of the year and previous appellate caseload and capacity projections were abandoned. By October, SADO already had received more pleas than it had the capacity to handle for the year. As a result, the formula was readjusted and SADO shutdown intake of Level 1 and Level 2 plea categories, while continuing to accept 15% of all of the other types of cases.

Based on 2005 year-end data, overall SADO received 14.6% of the total appellate assignments – 13.3% [199] Level 1 cases, 14.3% [251] Level 2 cases, and 18.3% [114] Level 3 cases – an amount still in excess of its capacity for the year.

SADO's capacity to handle case is largely based on the number of staff attorneys it employs. Its assignment level for 2005 was 14.6%. Due to previous year budget cuts and staff reductions, coupled with the large influx of *Halbert*-related plea assignments, in 2005 SADO barely had the capacity to handle the 564 cases it received.

Figure 1 below indicates that SADO’s capacity for 2005 was 554.7 cases. Consequently, SADO finished the year with 9 cases more than it had the capacity to handle.

Figure 1



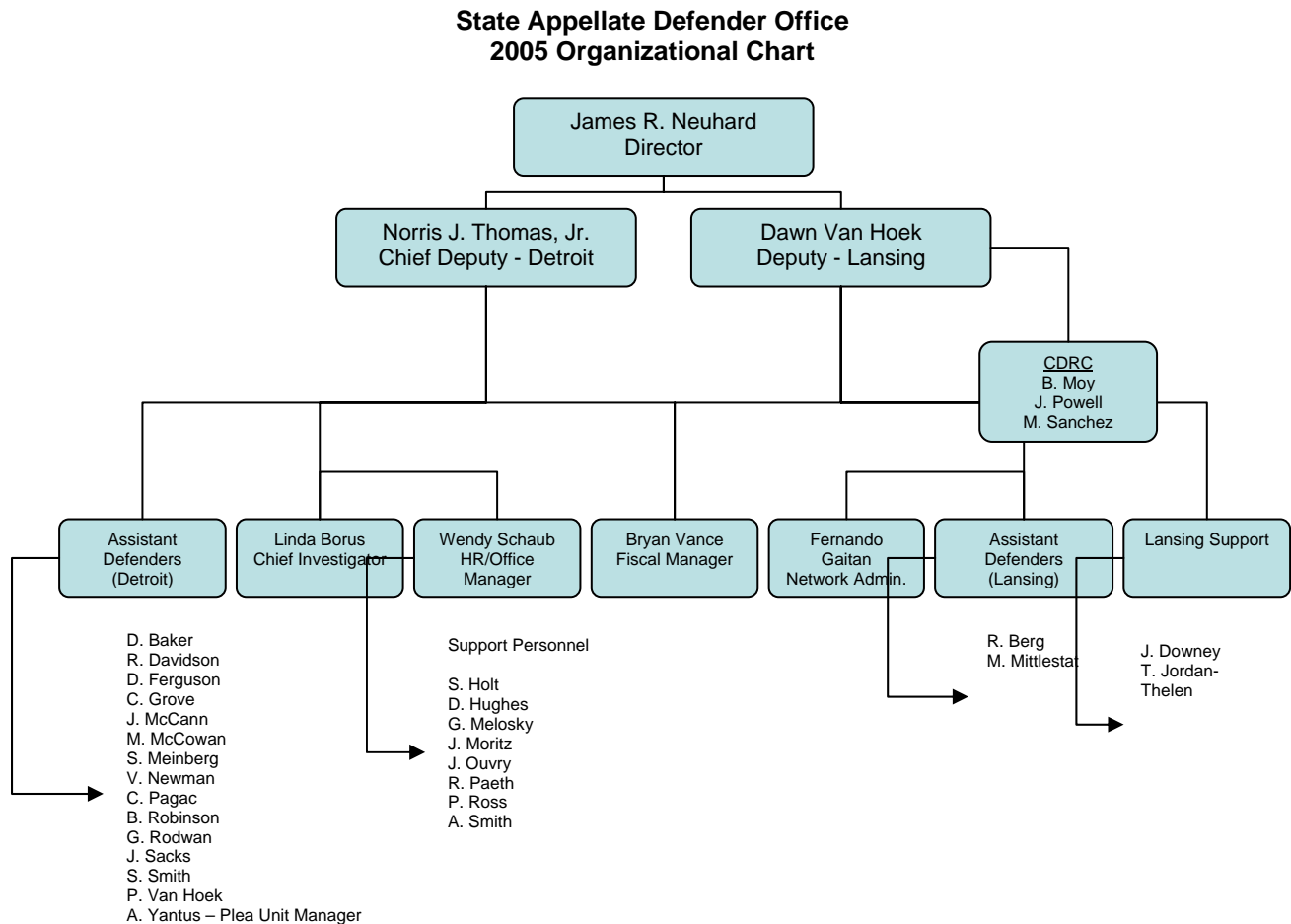
### SADO STAFFING AND DIRECT CLIENT SERVICES

At the end of 2005, SADO’s staffing levels included 34 full-time employees and 3 part-time employees, a slight drop from the previous year’s 35 full-time employees. Two new attorneys were hired this year - three separated from employment. By the end of 2005, the Director, Chief Deputy Director, and 15 Assistant Defenders were housed in the Detroit (main) office; and the Deputy Director and two Assistant Defenders were located in the Lansing office. One Paralegal, four Legal Secretaries, and the Chief Investigator directly supported the legal staff. The Human Resources Manager, Fiscal Manager, Network Administrator, Webmaster, Administrative Assistants, Clerk, and Receptionist assisted the administration and provided secondary support to the legal staff.

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

Below is an organizational chart that illustrates the composition of SADO's staff by the end of 2005.

Figure 2



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.

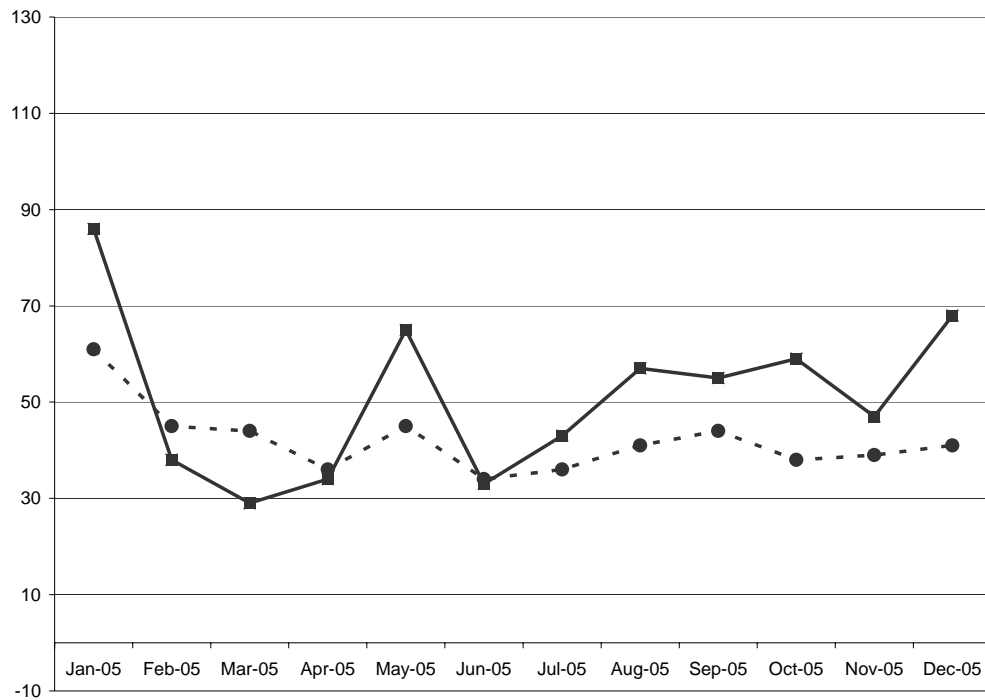
## PRODUCTIVITY

In 2005, SADO Assistant and Deputy Defenders were assigned 701 cases and produced 1,813 filings, 609 of which were opening pleadings (Brief on Appeal or Motion for New Trial or Resentencing with a supporting brief). (See Table III of the Appendix)

The chart in Figure 3 compares assignments to the opening pleadings. An opening pleading satisfies a substantive filing requirement or closes the case by dismissal of the appeal (See Table VIII of the Appendix).

Figure 3

Opening Pleadings<sup>2</sup> Filed  
vs.  
No. of Assignments to Attorneys<sup>3</sup> for 2005



	Jan-05	Feb-05	Mar-05	Apr-05	May-05	Jun-05	Jul-05	Aug-05	Sep-05	Oct-05	Nov-05	Dec-05
Assignments to Atty	86	38	29	34	65	33	43	57	55	59	47	68
Opening Pleadings	61	45	44	36	45	34	36	41	44	38	39	41

Court of Appeals filings are the most critical, because untimely filings may result in irremediable procedural default of meritorious appellate claims, penalties, including cost assessments against the attorney, remand and assignment of a new attorney, causing further delays for the client and expense to the system, or loss of oral arguments in the case. The more thorough the filing is, the less likely the need to file additional pleadings to satisfy exhaustion requirements. Thorough briefing also reduces pro se filings which place a significant burden on local courts and the appellate system. Figure 3 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.

<sup>2</sup> 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.

<sup>3</sup> Assignments to Attorney – when a SADO staff attorney takes responsibility for a case assigned to SADO

## **SPECIAL UNIT FOR PLEAS AND EARLY RELEASES (PLEA UNIT)**

Because of the large number of plea appeals assigned to the office, in the early 1980's SADO developed a Special Unit for Pleas and Early Release to process plea-based appeals and trial-based appeals with sentence or other time-related mootness problems. This differential case management allowed the Unit attorneys to handle twice as many clients and cases as 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 41.2 cases per staff attorney in 2005 (see Table III 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. Historically, after Unit attorneys review the file, conduct research and fact investigation, consult with and advise the client, their clients on average voluntarily dismiss between 38% and 42% of their cases.<sup>4</sup> In 2005, the average dismissal rate was 45%. The Unit's overall relief rate<sup>5</sup> generally exceeds 37%, with a relief rate of over 90% in the cases presented on the merits to trial courts. In 2005, the average relief rate was 47% for the three full-time staff attorneys in the Unit who ably handled 55% of the total plea-based appeal assignments to attorneys.

The Unit continues to expeditiously handle primarily plea-based appeals. The 1994 amendment to the Michigan Constitution (Proposal B), held unconstitutional in *Halbert v. Michigan*, and subsequent legislation limiting poor people's right to appointed counsel to appeal their guilty pleas and sentences reduced the number of guilty plea appeals reaching the Court of Appeals. However, there was only a very small reduction in the total number of assigned guilty plea appeals. Many judges throughout the period continued to assign counsel.

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<sup>4</sup> 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.

<sup>5</sup> On cases where relief is sought (excludes dismissals).



## **2005 GOALS AND OBJECTIVES**

### **Timely Process As Close to 25% of the Total Assigned Appeals As Resources Will Permit.**

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 2005 was to handle as close to 25% of the total appellate assignments as resources would permit. However, as historically has been the case, in 2005 SADO was understaffed and under funded and therefore handled only 14.6% of the appeals, which was still more than its capacity. Of particular note, SADO has never been removed from any case for want of prosecution under MCR 7.217(A) in spite of accepting more cases than it has had the capacity to handle and absorbing the caseloads from the loss of fifteen staff attorney positions over the last nine years.



## Criminal Defense Resource Center 2005 Annual Report

**Primary Goals for 2005:** 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 2005<sup>6</sup> marked the twenty-ninth 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. User fees supported a portion of the costs of books, newsletters, copying, and operation of the SADO web site. The principal grant was from the Michigan Commission on Law Enforcement Standards, earmarked for training projects, in the amount of \$218,219. This MCOLES award supported: (1) hands-on workshops for assigned counsel, covering computerized research, writing and presentations, (2) staff attendance of technology conferences, (3) publication of the Defender Trial, Sentencing, Habeas and Motions Books, (4) scholarships for assigned counsel to attend skills conferences, both in-state (CDAM Trial College) and out-of-state (National Criminal Defense College and NLADA Appellate Defender Training) and (5) seminars of the Wayne County Criminal Advocacy Program. A month-by-month grant continued for the Attorney-to-Attorney Project in Wayne Circuit Court, awarded by the Wayne Criminal Defense Attorneys Association.

While operations are described in detail below, several activities during 2005 are noteworthy:

- A partnership with the Michigan Public Defense Task Force was created, resulting in the hosting and operation of a web site ([www.mipublicdefense.org](http://www.mipublicdefense.org)) by the CDRC.
- The "Attorney-to-Attorney" Project changed funding sources and discontinued telephone support. The Project connects criminal defense attorneys with the CDRC's experienced research attorneys, working from two locations, providing legal research, advice, pleadings and training. Despite well-documented need for this support, funding remains problematic.<sup>7</sup> MCOLES funding for the project was not awarded, due to its

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<sup>6</sup> Due to reporting methods based on a subscription year, the time period covered by this report is October 1, 2004 to September 30, 2005.

<sup>7</sup> For over 23 years, SADO funded the service from its budget for contract legal assistance, helping thousands of attorneys with matters of law and strategy. When budget reductions occurred during the late 1990s, the service was

Commission's determination that the project did not qualify as "training." The Wayne County Criminal Defense Attorneys Association remained enthusiastic about partnering with the CDRC to provide the service in Wayne County Circuit Court, where CDRC research attorneys met directly with those attorneys needing assistance. And, starting late in the report period, an e-mail gateway became the principal way to provide the service statewide, supported by subscriptions.

- 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, 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 2005: drawing on data collected by SADO in the normal course of business, a collection of expert witness transcript excerpts was made available to subscribers via the web.
- Forum traffic continued to increase. The Forum, the CDRC's online discussion group of over 650 criminal defense attorneys, continued its upward path in the number of messages exchanged. Messages averaged a bit over 1475 per month, ending the year at approximately 1700 (September, 2005). Attorneys post messages 24/7, asking questions about practice and procedure, sharing pleadings and suggestions for strategy. Messages are collected in a searchable database, providing a rich resource of advice that can be used over and over.
- Delivery of certain publications in electronic form again proved popular during the year, advancing both timeliness and cost savings. The Criminal Defense Newsletter and the summaries of appellate decisions went out to nearly 686 subscribers to web services, delivered as attachments to e-mail messages.
- An "umbrella" grant to the CDRC for statewide criminal defense training included new partners and projects. During the report period, the CDRC obtained MCOLES funding not only for its "traditional" projects, but also for those undertaken with training partners. For the first time, that included the one-week Trial Skills College of the Criminal Defense Attorneys of Michigan (CDAM), and the 10-seminar series of the Wayne County Criminal Advocacy Program (CAP). And, MCOLES-funded training included seminars presented by CDRC staff in "high-tech" courtrooms, where in-depth training on trial presentation software was provided.

## **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.

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significantly reduced and then discontinued. In 2000, the CDRC obtained a grant from the Department of Justice's Bureau of Justice Assistance, emerging as the top awardee following a nationwide competition. The 18-month, \$150,000 award funded 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). The support service resumed in June of 2001 and operated with federal grant funding until the middle of 2003. As the federal grant ended, the Michigan State Bar Foundation responded to the CDRC's request, awarding "bridge" funding in the amount of \$27,000. In 2004, the CDRC obtained MCOLES funding for the service in the amount of \$54,000. Research attorneys trained other attorneys on how to use online resources for research and writing purposes, working together to solve problems arising in real cases. As a long-range goal, the CDRC is working toward state funding of this essential service.

### **A. Criminal Defense Newsletter.**

This near-monthly newsletter (nine issues published) delivered an average thirty-two pages of essential information to approximately 1,100 subscribers electing to receive hard copy. A growing number of subscribers (686) chose to receive 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.

### **B. Defender Trial, Sentencing and Post-Conviction, Motions, and Habeas 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 2300 pages of relevant information were delivered to users, covering developments through May of 2005. These four 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 and the Defender Habeas Books contain model pleadings 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. The books also reside, in all editions, on the CDRC's web site, [www.sado.org](http://www.sado.org). All books are full-text searchable on the web site.

Asked about how frequently they use the books, 7.69% of the trainees said daily, 62.82% said weekly, 21.79% said monthly and 7.69% said less than monthly. These results reflect heavy use, as in prior years. Approximately 66% said they use the books to browse a topic to learn the law, 75% used them to quickly identify a case, rule or statute, and 69% 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, 26% said they were indispensable, and 66% said they were helpful.

### **C. Attorney-to-Attorney Training Project.**

Although the CDRC again requested MCOLES funding for its Attorney-to-Attorney Project, the Commission determined that it did not meet its definition of "training," and did not renew last year's \$54,000 award. The report period includes the final quarter of the 2004 MCOLES-supported project.

And, as the MCOLES funding for a statewide phone intake line was eliminated, the CDRC launched a strictly e-mail version, called [help@sado.org](mailto:help@sado.org). Subscribers to the CDRC's web-based services may send messages at any time, and they are answered within 24 hours by a CDRC research attorney. In addition to substantive answers in the

body of e-mail messages, pleadings and other useful documents are attached to the replies.

The CDRC continued its partnership with the Wayne County Criminal Defense Attorneys Association to provide the Attorney-to-Attorney support in Michigan's busiest criminal venue, Wayne Circuit Court. CDRC research attorneys provide approximately 20 hours of service weekly, directly consulting with other criminal defense attorneys who need urgent answers to their legal questions. During the report period, new space was developed in the courthouse, making it easier to consult and gain access to online resources. CDRC attorneys provide pleadings, citations, and a sounding board on matters of criminal law and procedure.

During the year, 1702 contacts took place between CDRC research attorneys and the users of the service. A detailed report appears in the appendix.

### **III. Services Delivered by the Web**

#### **A. Databases**

The year 2005 again 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](http://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) remained available in "PDA" 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 2005, 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. Videotaped training events of the Criminal Advocacy Program (CAP) were added to its new web site ([www.capwayne.org](http://www.capwayne.org)) during the year, including links to the presenters' handout materials. 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. Also significant in 2005 was development of a new database consisting of selected testimony from expert witnesses, available to subscribers. As SADO scans transcripts of all of its

assigned cases, testimony of experts is identified by attorneys. This testimony is indexed and notes are added, as well as links to related cases and documents. The database is searchable, making it possible to determine whether a particular expert testifies consistently.

And, during 2005, the CDRC's webmaster posted archival editions of the Defender Books, making it possible to determine the "state of the law" in prior years.

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, averaged about 35,000 per month during the report period (an increase from last year's average of about 29,000).

## **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 listserv averaged over 1475 messages per month, with many months in the 1400 range. 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, the CDRC again encouraged users to read electronic copies of appellate decision summaries, in lieu of mailed hard copies, which were discontinued in 2004. Once a week, summaries of that week's appellate decisions were sent via e-mail to the 686 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 686 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/Conferences**

With funding support from the Michigan Council on Law Enforcement Standards (MCOLES), the CDRC once again offered statewide training events on the subject of Automated Research and Writing for Criminal Defense Attorneys. Twenty-one events took place, each three hours long, reaching a total of 196 trainees in approximately a dozen different locations throughout Michigan. The average size of the group trained was approximately nine, 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. As in 2004, 2005 was particularly noteworthy for the ability of trainers to use computer labs; most trainees were able to work at their own computer, with live web access, greatly enhancing the learning experience.

And, during 2005, partnerships were formed between the CDRC and judges who run "high-tech" courtrooms. Those judges are eager to train attorneys on use of trial presentation hardware and software, and several programs were presented in such courtrooms.

Evaluation of the direct training events showed their great value to practicing attorneys, with surveys revealing that 65% of trainees increased their use of the web for legal research after receiving the training. Asked how often they use the SADO web site for legal research, 10% said every time, 46% said most of the time, 28% said sometimes, 9% said rarely, and 7% said not at all. Use of the SADO site is significant because it contains the most content of any legal research site available to Michigan's assigned counsel. Trainees also were asked how much research time was saved by using the SADO online databases: 39% said more than 10 hours monthly, 29% said between 5 and 10 hours monthly, 29% said under 5 hours monthly, and 3% said no time was saved. Asked if they would continue to use the SADO site for research and writing purposes, virtually all (100%) gave an affirmative answer. Asked to rate SADO's trainer, John Powell, 97% responded that he was either "excellent" or "very good."

For the first time, the CDRC revised its MCOLES grant application to include funding for conferences planned with training partners, the Criminal Defense Attorneys of Michigan (CDAM) and the Criminal Advocacy Programs of Wayne County Circuit Court (CAP). Funding was obtained for ten trainee scholarships to attend the summer CDAM Trial College, and also for the operational expenses of the ten CAP seminars conducted each fall.

#### **V. Sharing/partnering with the Community**

The CDRC continued in 2005 to share its resources and expertise with others. During the year, the CDRC continued to provide 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. The

CDRC also partnered with the Wayne County Criminal Advocacy Program and the Wayne County Criminal Defense Attorneys Association to create a web site that will capture the excellent training offered each fall for assigned criminal defense attorneys in Wayne Circuit Court. Presenters' handouts and the video of their presentations are available at [www.capwayne.org](http://www.capwayne.org). And, CDRC staff provided significant technical assistance to the Criminal Defense Attorneys of Michigan. CDAM reduced its operating budget considerably by publishing training materials on CD-ROM instead of printed pages, during the report period. Finally, the CDRC partnered with the Michigan Public Defense Task Force to host its web site ([www.mipublicdefense.org](http://www.mipublicdefense.org)) and maintain it through updates.

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.

# THE 2005 ANNUAL REPORT OF THE MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

## GENERAL OVERVIEW

Indigent Michigan felony defendants who submit requests within certain time limits and in certain circumstances 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 Circuit Courts/Counties.

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 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 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 had been in effect since February 1, 1982. In 2004, the Supreme Court adopted seven Revised Minimum Standards, in Administrative Order 2000-32, which combined some former Standards with one another, and slightly revised others. These minimum performance standards became effective on January 1, 2005.

## ADMINISTRATION

### Introduction

When fully-staffed, MAACS employs 10 people. Eight positions are full-time salaried employees (FTEs) and two are part-time contract employees:

- An Administrator, a Deputy Administrator and an Associate Administrator (currently vacant), all of whom are lawyers.
- 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 (currently vacant), and
- A part-time file clerk (currently vacant).



In 2002, due to a reduction in appropriations to the office, MAACS was compelled to lay off personnel in the positions designated as vacant above. For the same funding-related reasons, these positions remained vacant throughout 2005 and to date.

The administrative design has four 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. Finally, 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.

## **I. 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. As of December 31, 2005, there were 143 attorneys on the statewide roster. Fourteen lawyers left the roster in 2005. Five lawyers were added to the roster: four who re-joined after a voluntary absence and one lawyer was added, as a level 2 lawyer, by the Appellate Defender Commission after review and recommendation by the MAACS administration.

MAACS classifies roster attorneys into three eligibility levels, depending on their qualifications. Reg. 4(2). 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 re-sentencings. In general, then, 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. On December 31, 2005 there were 59 Level 1, 46 Level 2 and 32 Level 3 roster attorneys.

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 by MAACS administrative personnel. Attorneys wishing to join the MAACS roster may submit an application and examples of written work demonstrating appellate and/or comparable legal experience for evaluation by MAACS administrative staff. An individual lawyer who relies on comparable experience to meet Regulatory requirements for admission to the roster at a level higher than Level 1 must be recommended for placement on the roster by the MAACS administrative staff and approved for such placement by the Appellate Defender Commission.

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.

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. Based on a review of the renewal application and the applicant's work on prior felony appeals, and the assessment of any supplementary materials, the Administrator then notifies the re-applicant whether he/she will be retained at Level 1, 2 or 3 or not be 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. All roster lawyers were required to reapply for retention on the roster again in 2005. The retention review process was largely, but not completely, finished by the conclusion of 2005.

## **II. 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. 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 13<sup>th</sup>) 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 previously 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.

#### B. Statistics

In 2005, appellate counsel was assigned in 3875 cases. This figure represented a 10.4% increase from the 3420 assignments in 2004 and a 7% increase from the assignment level in 2003. In 2005, SADO was assigned 564 cases, or 14.6% of the total.

The distribution of assignments by case type and level appears in the chart on the last page of this material. As noted above, 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 re-sentencings.

### III. Improving Attorney Performance

MAACS uses three methods to improve the quality of representation roster attorneys provide to their indigent clients. MAACS:

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

#### A. Training

##### 1. Training Seminars

MAACS provides training through diverse means. Over the last several years, MAACS has been fortunate to be able to provide training through grants from the Michigan Commission on Law Enforcement Standards (MCOLES). In 2005, and with grant funding from MCOLES, MAACS presented one Fall training program, on three dates and locations: October 7<sup>th</sup> in Grand Rapids; October 20<sup>th</sup> in Novi; and, October 27<sup>th</sup> in Lansing. The training, entitled "Recent Landmark

Decisions” involved presentations by Professor David Moran of the Wayne State University Law School on *Tesmer* and *Halbert*, MAACS roster member Patrick Ehlmann on *Strickland v Washington* and emerging issues concerning the right to confrontation and Attorneys Robyn Frankel and Jerome Sabbota on *Blakely v Washington* and its impact on Federal and State sentencing guidelines systems, including Michigan’s. The grant also allowed for the preparation and mailing of updated materials regarding written communication with clients and included a training presentation regarding these “Sample Letters” from the editor of that publication, James Krogsrud, of the State Appellate Defender Office. This publication was distributed to all training session attendees, and was eventually mailed to all MAACS roster lawyers, primarily in CD-ROM version, but also in hard-copy for those members of the roster who do not yet own computers. Finally, MAACS administrators offered updates and breaking news on current events in Michigan appellate defense. These programs received excellent evaluations from the attendees.

## 2. Practice Manuals

In previous years, MAACS has also prepared and disseminated practice manuals and/or compact discs to the entire roster. Titles of these materials include *Felony Sentencing in Michigan* (4<sup>th</sup> Edition), *Pleadings and their Usage in Michigan Appellate Practice*, (2<sup>nd</sup> Edition), and an *Expert Lecture Series* on a wide variety of appellate practice issues (compact disc). As outlined above, in 2005 MAACS prepared the 2nd Edition of *Sample Client Letters* and made it available to all roster lawyers in CD-ROM or written hard-copy versions.

3. 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. The administrators also routinely field telephone and internet 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 2005 one roster lawyer was re-classified from Level 1 to Level 2. Seven requests for re-classification were closed without reclassification.

Similarly, non-roster attorneys may also request 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 reviews these applications and makes specific recommendations regarding them to the Commission, which has the final say, based on the recommendations and its own review of the applicant’s material/experience. In 2005, one lawyer was allowed to join the roster as a Level 2 member having demonstrated the requisite comparable experience in the opinion of the Commission.

### 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, and then determines whether a substantial violation of the Standards has occurred.

For example, in 2005 MAACS resolved 15 formal complaints involving 14 different roster attorneys. In all of these cases, 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 apprized 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. Fortunately, the violations of the Minimum Standards in these fifteen cases did not result in MAACS having to request the appointment of substitute counsel by the circuit courts, or the recommendation to the Commission that the lawyer involved be removed from the roster.

### **IV. Other Activities**

As should be clear, MAACS serves a number of different constituencies, which include the trial and appellate courts, roster attorneys, SADO, and defendants. MAACS provides a variety of services to these systemic participants. As a partial example, MAACS:

Responds 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 prompts the appointment of counsel.

Provides form pleading packets to defendants who wanted to appeal a trial court's denial of a request for appellate counsel, or information concerning pending litigation regarding this issue.

Collects, analyzes and disseminates annual data, not available from other sources, about the volume, type of appellate assignments, and their distribution to roster attorneys and SADO.

Responds to hundreds of inquiries per year from defendants and their families seeking information about postconviction remedies or assistance with problems outside MAACS' bailiwick.

Compiles information about appellate assigned counsel fees and attempts to promote the payment of reasonable fees, and consideration of alternative methods for the adequate funding of indigent appellate defense.

Serves as a spokesperson for the interests of roster attorneys and their clients in various forums and by various methods. For instance, MAACS provides comments on proposed court rules, testifies at Supreme Court public hearings regarding those proposals, participates in discussions with the Court of Appeals concerning its delay-reduction efforts and other issues, and resolves administrative concerns with the Department of Corrections. The administrator and deputy administrator also serve on numerous committees, commissions, boards, and task forces.

**STATE APPELLATE DEFENDER OFFICE  
LITIGATION APPENDICES**

**TABLE I**  
**STATE APPELLATE DEFENDER OFFICE ANNUAL REPORT**  
**FOR THE YEAR OF 2005**

Total New Appointments to SADO 1/1/05 to 12/31/05	<b>607</b>
Total Cases Assigned to Staff Attorneys 1/1/05 to 12/31/05	<b>701</b>
Total Filings by SADO 1/1/05 to 12/31/05	<b>1813</b>
Cases Closed (not Done*) 1/1/05 to 12/31/05	<b>64</b>
Cases Officially Closed (Done*) 1/1/05 to 12/31/05	<b>811</b>
Total Cases Closed 1/1/05 to 12/31/05	<b>495</b>
Total Cases Open as of 12/31/05	<b>1247</b>

- "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 2005**

**SADO FILINGS 1/1/05 to 12/31/05**

Trial Court	574
Court of Appeals	974
Supreme Court	235
Federal Courts	30
<b>Total FILINGS</b>	<b>1813</b>

**MAJOR FILINGS 1/1/05 to 12/31/05**

Trial Court	517
Court of Appeals	482
Supreme Court	222
Federal Courts	13
<b>Total MAJOR FILINGS</b>	1234 = 68% of all filings

**SADO APPOINTMENTS BY CASE TYPE 1/1/05 to 12/31/05**

Pleas	294
Probation Violation Pleas	45
Jury Trials	208
Bench Trials	31
Probation Violation Trials	8
Prosecutor Appeals	4
Resentencing	15
SC Application – OTHER	1
Specials	1
<b>Total ASSIGNMENTS</b>	<b>607*</b>

\* Again, this 607 cases assignment total differs from MAACS' 564 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
2003	17	749	936	55.1	2501	147.1	2.67	824	1544	90.8	1.65
2004	18	613	740	41.1	2196	122	2.97	657	1315	73.1	1.78
2005	17	607	701	41.2	1813	106.6	2.59	609	1234	72.6	1.76

- An opening pleading seeks relief from a conviction or sentence – e.g., a brief on appeal, motion for preemptory 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 1993-2005**  
**AS COUNTED BY MAACS**

	<b>GRAND TOTAL</b>	<b>SADO'S PERCENT* OF GRAND TOTAL*</b>	<b>LEVEL III CASES PERCENT OF TOTAL</b>	<b>SADO'S PERCENT OF LEVEL III CASES</b>
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%
2001	3,076	785 25.5%	549 17.9%	177 32.2%
2002	3,217	861 26.8%	595 18.5%	208 24.2%
2003	3,625	696 19.2%	755 20.8%	174 23.0%
2004	3,420	588 17.2%	551 16.1%	100 18.1%
2005	3,875	564 14.6%	624 16.1%	114 18.3%

- 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**

<b>YEAR</b>	<b>PLEAS</b>	<b>TRIALS</b>	<b>BENCH</b>	<b>OTHER</b>	<b>TOTAL</b>
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
2003	393 (52%)	305 (41%)	44 (6%)	7 (1%)	749
2004	344 (56%)	231 (38%)	35 (6%)	3	613
2005	349 (57%)	223 (37%)	31 (5%)	4	607

- 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**

<b>YEAR</b>	<b>APPOINTMENTS</b>	<b>SUBSTITUTIONS</b>
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
2003	749	80
2004	613	71
2005	607	57

- 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\* 1993-2005**

	<b>TOTAL</b>	<b>NO RELIEF GRANTED</b>	<b>RELIEF GRANTED</b>	<b>PARTIAL RELIEF GRANTED</b>	<b>RELIEF RATE COMBINED%</b>
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
2003	759	582 (77%)	139 (18.31%)	38 (5%)	23.31
2004	613	508 (83%)	94 (15.33%)	32 (5%)	20.33
2005	554	435 (79%)	90 (16.24%)	29 (5%)	21.24

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

<b>YEAR</b>	<b>TOTAL DISPOSITIONS</b>	<b>DISMISSALS*</b>	<b>WITHDRAWALS **</b>
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%)
2003	1014	193 (19%)	35 (3%)
2004	785	100 (13%)	27 (3%)
2005	733	139 (19%)	19 (3%)

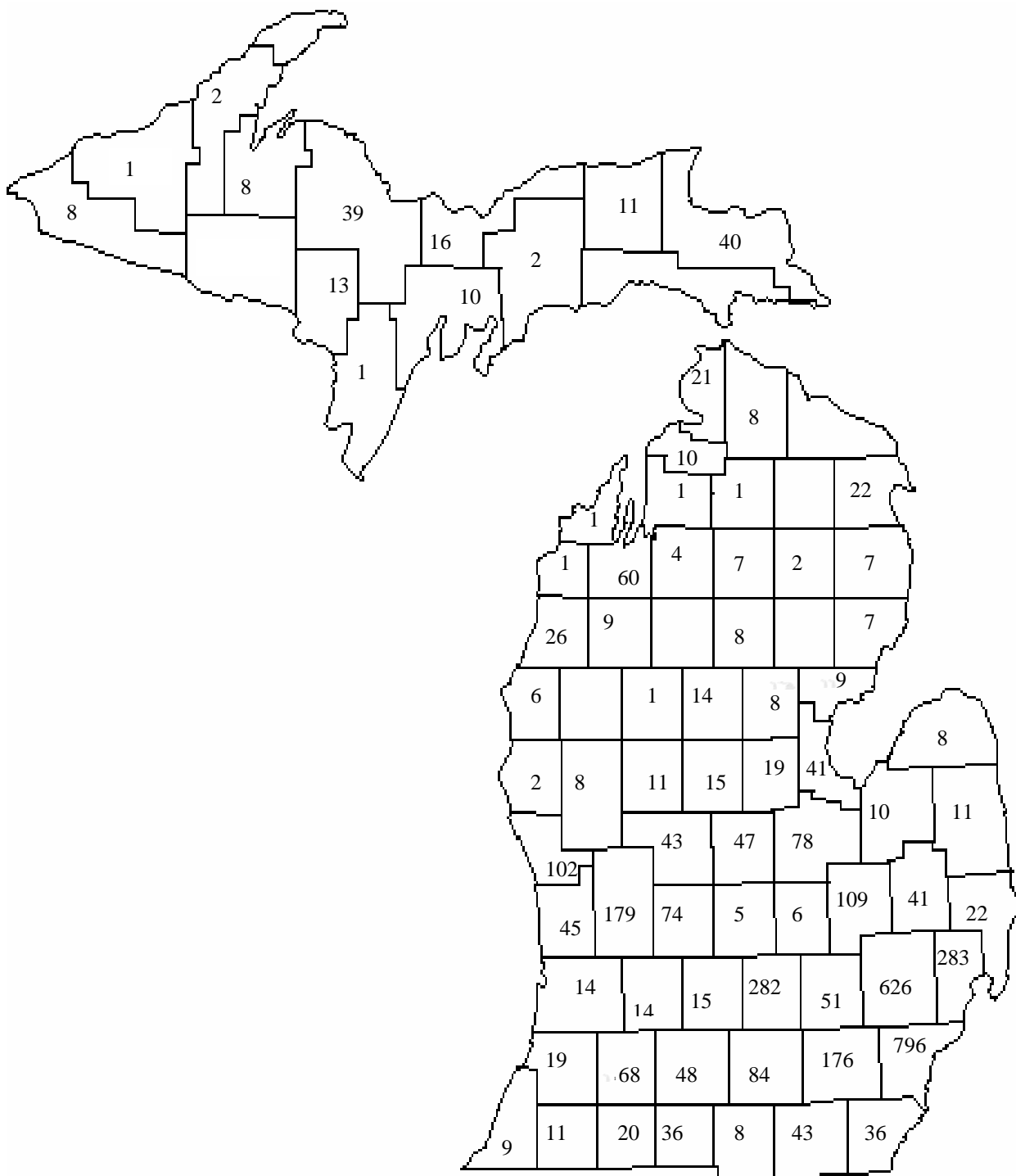
- Dismissals usually occur after complete review of the case and consultation with the client. This generally involves much substantive work for the defense attorney, but only minor or no work for the courts and prosecutors, and, thus, conserves scarce justice system resources. SADO does not use the 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(c)(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.

**STATE APPELLATE DEFENDER OFFICE  
CRIMINAL DEFENSE RESOURCE CENTER  
APPENDICES**

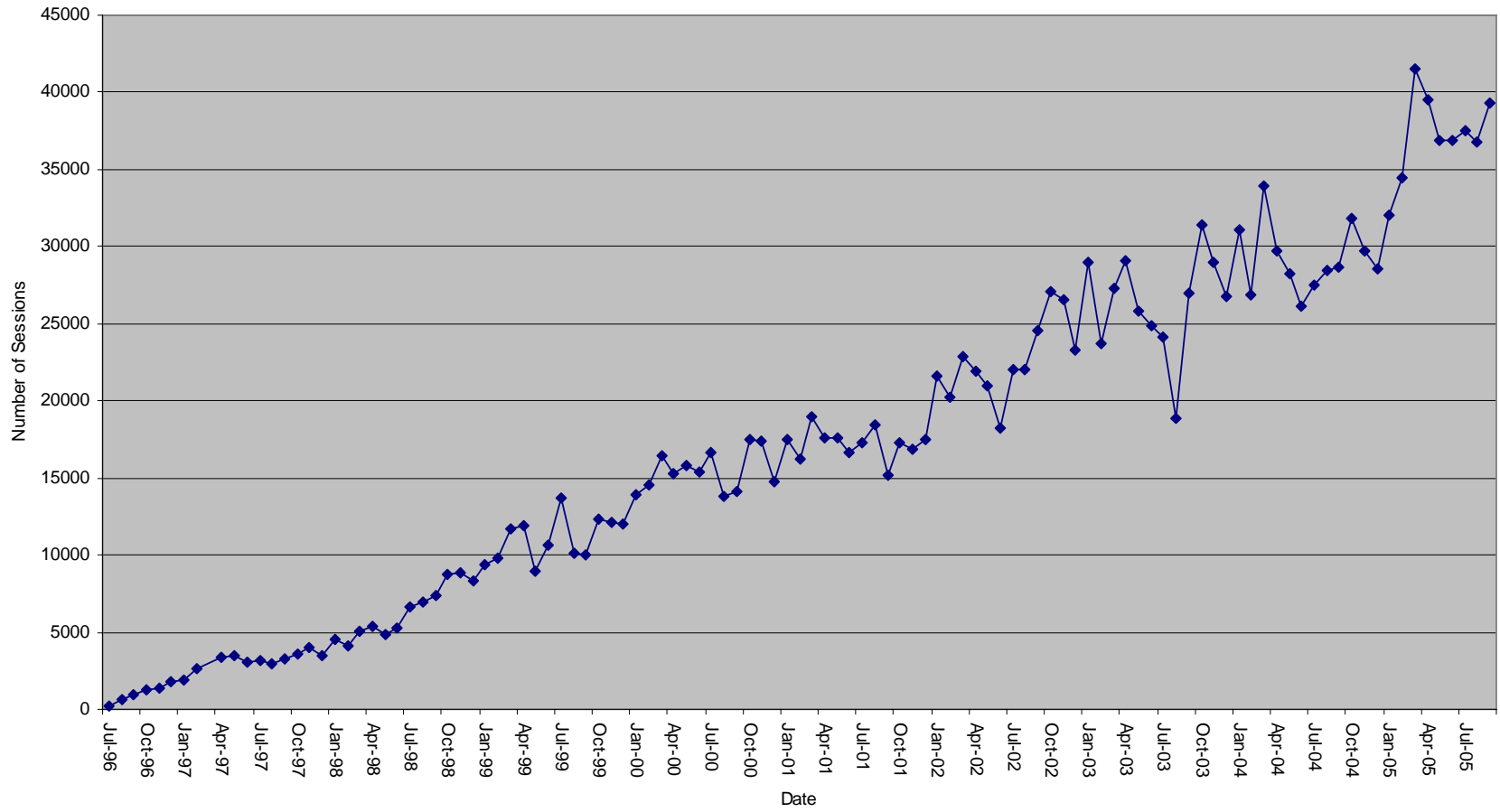
**Geographic Representation of  
Subscriptions to Project Services<sup>8</sup>**

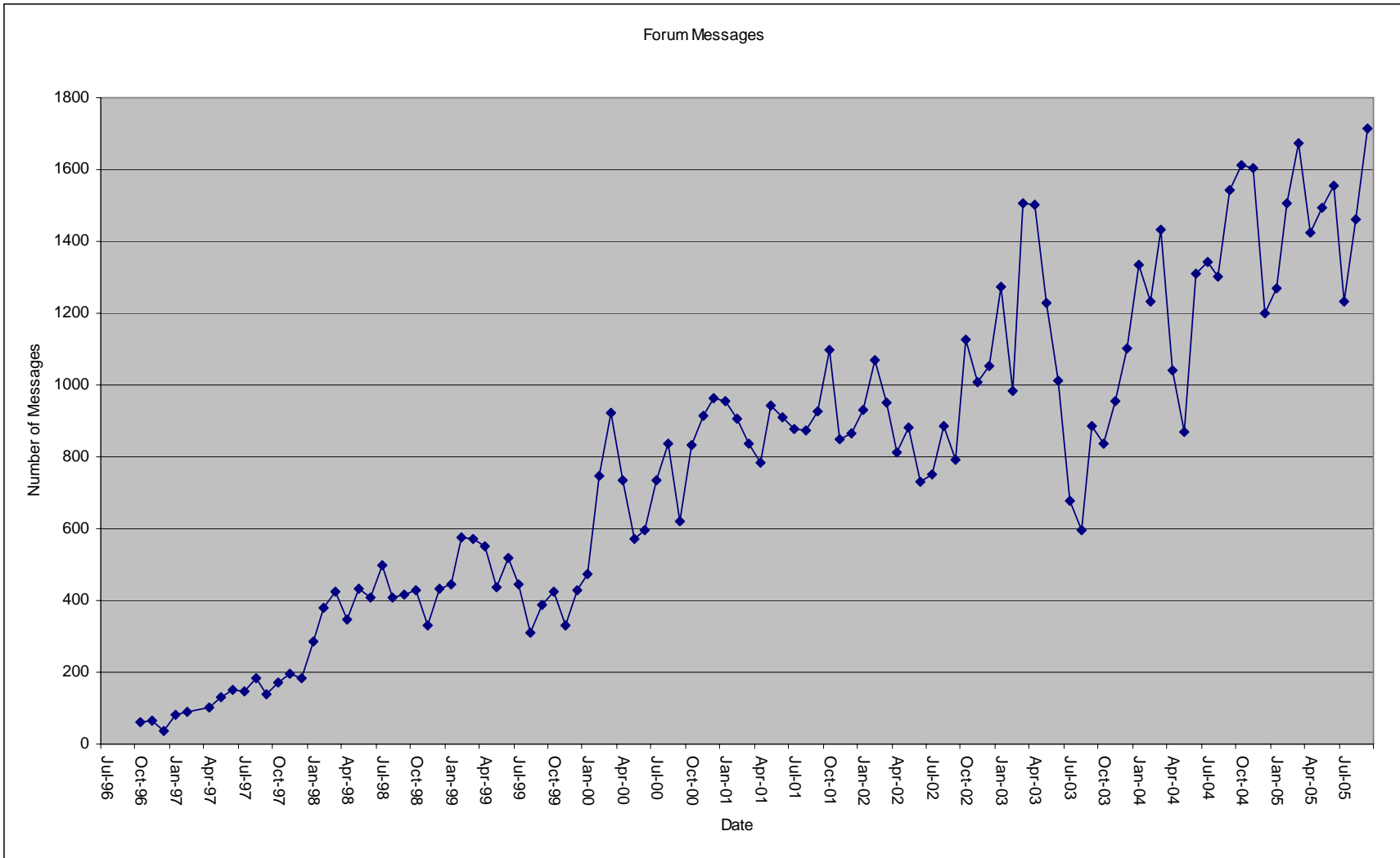
**October 1, 2004 - September 30, 2005**



<sup>8</sup> Each number represents a subscription to the Defender Books, Criminal Defense Newsletter or Web Services.

Total User Sessions  
CDRC Web Site





**Forum Messages by Day of Week  
October, 2004 – September, 2005**

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
October, 2004	89	230	285	362	309	271	66
November, 2004	60	398	324	272	213	248	88
December, 2004	32	177	199	301	258	186	45
January, 2005	79	276	196	204	253	211	51
February, 2005	104	226	272	267	296	232	110
March, 2005	78	264	312	327	360	239	93
April, 2005	66	217	255	285	240	248	113
May, 2005	59	195	334	285	330	225	65
June, 2005	48	194	279	344	401	233	58
July, 2005	82	183	191	172	229	320	55
August, 2005	67	279	261	361	222	223	48
September, 2005	79	250	275	295	397	336	81
<b>Totals</b>	<b>843</b>	<b>2889</b>	<b>3183</b>	<b>3475</b>	<b>3508</b>	<b>2972</b>	<b>873</b>
<b>Total Messages Sent</b>	<b>17,743</b>						

**WCCDA (FMHJ) and MCOLES (SADO) Grants  
Attorney-to-Attorney Support Service  
October, 2004 through September, 2005**

**1. Number of contacts with service**

Total	SADO	FMHJ
1702	631	1071

**2. Number of attorneys using service:**

Total	SADO	FMHJ
463	275	188

**3. Number of individuals using service (SADO Only):**

Total	Attorneys	Non-Attorneys
368	275	93

**4. Method of contact:**

	SADO	FMHJ
E-mail	120	24
Telephone	467	32
In-Person	35	1013
Mail	0	0
Other	9	2

**5. Nature of presenting issues:**

Total	SADO	FMHJ
Trial	248	768
Appellate	151	70
Plea	12	22
Sentencing	72	94
Web	4	14
Software	0	0
Forum	4	7
Research	44	17
Other	96	79

**6. Geographical spread of research provided (SADO Only):**

<b>County</b>	<b>Number of Contacts</b>		
ALGER	2	LAPEER	6
ALPENA	2	LIVINGSTON	14
BAY	4	MACOMB	45
BERRIEN	5	MARQUETTE	5
BRANCH	1	MECOSTA	1
CALHOUN	6	MENOMINEE	3
CHEBOYGAN	4	MONROE	4
CLARE	1	MUSKEGON	9
CLINTON	1	NEWAYGO	2
DELTA	4	OAKLAND	106
DICKINSON	2	OTTAWA	5
EATON	3	PRESQUE ISLE	1
GENESEE	9	ROSCOMMON	1
GRAND TRAVERSE	1	ST. CLAIR	5
HURON	1	ST. JOSEPH	2
INGHAM	37	WASHTENAW	18
ISABELLA	4	WAYNE	178
JACKSON	6	WEXFORD	1
KALAMAZOO	3		
KENT	15		

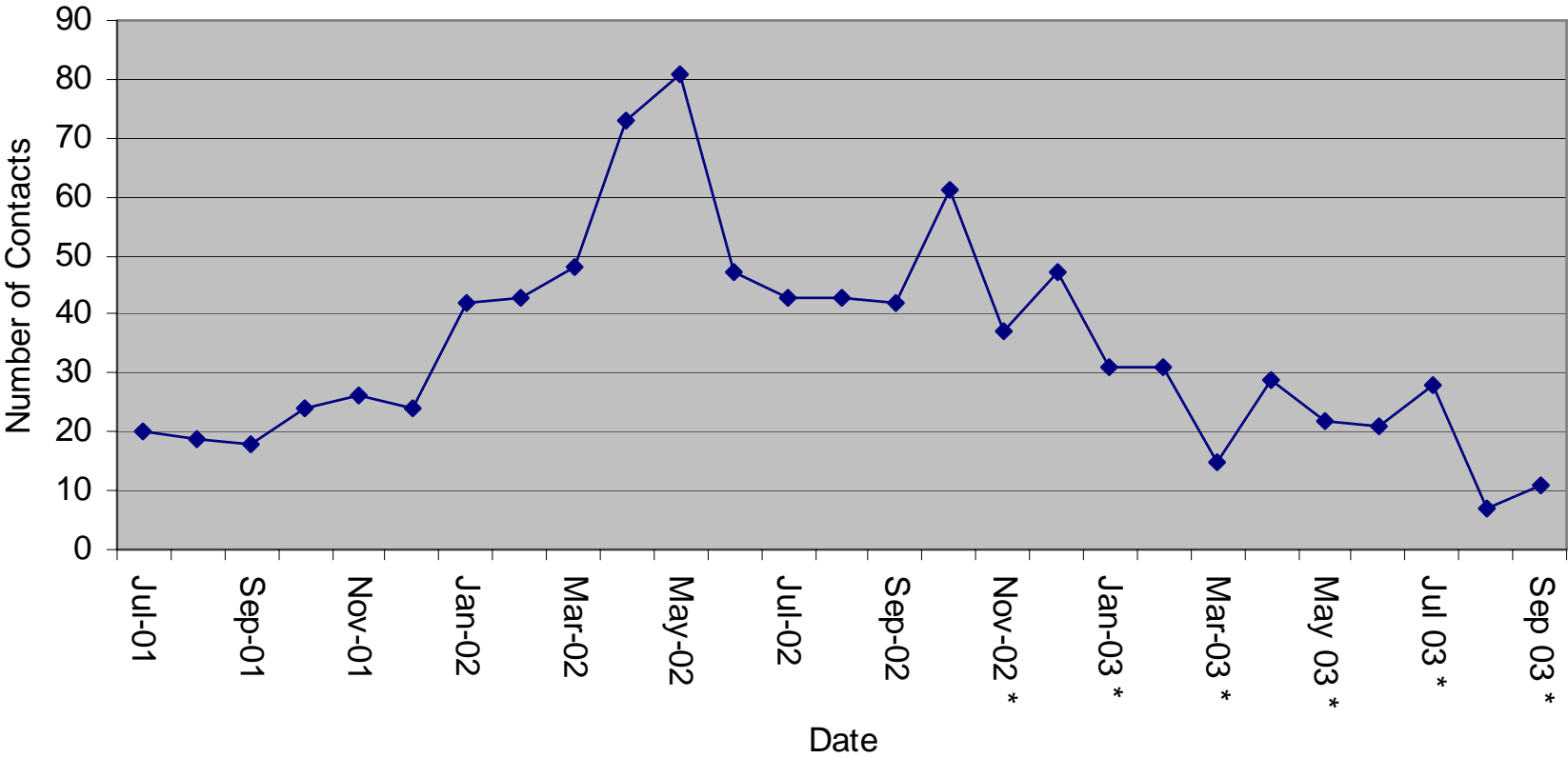
**6. Nature of solutions provided: \***

Identify/discuss legal issues:	757
Discuss strategy	432
Discuss procedure	381
Provide pleadings (from our databases, including packets)	271
Provide legal research (including citations & experts)	719
Train on web research	545
Troubleshoot technical problem	57
Provide forms (other sources, SCAO, CJI)	20
Referral to another agency or attorney	119
Other	120

\* some contacts involve solutions in two categories.



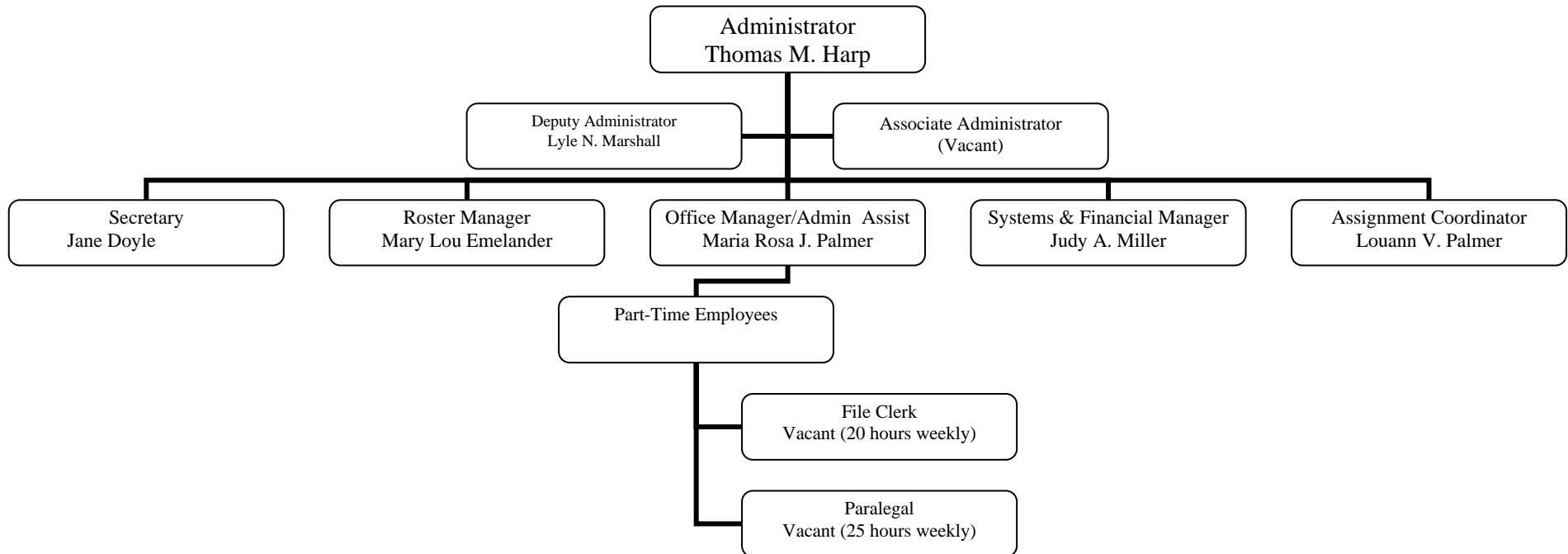
E-mail Contacts



**MICHIGAN APPELLATE ASSIGNED COUNSEL  
SYSTEM APPENDICES**

2005

MAACS ORGANIZATIONAL CHART



**APPELLATE ASSIGNMENTS  
1986 – 2005**

	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%
2003	3634	2938	696	19.2%
2004	3431	2841	590	17.2%
2005	3855	3289	566	14.7%

**APPELLATE ASSIGNMENTS  
JANUARY 1, 2005 TO DECEMBER 31, 2005**

	Total No. ---	SADO No. ---	SADO Percent of Total Case Type
	Percent of ---	Percent of <u>SADO Total</u>	
<b><u>Level I</u></b>			
Plea/PV/Resentencing	1286 33.4%	148 26.1%	11.5%
Waiver Trial/INT/6.5/PPO	72	18	25.0%
Evidentiary Hearing	1.9%	3.2%	
Jury Trial	126 3.3%	34 6.0%	27.0%
<b>Level I Total</b>	<b>1484 38.5%</b>	<b>200 35.3%</b>	<b>13.5%</b>
<b><u>Level II</u></b>			
Plea/PV/Resentencing	1460 37.9%	174 30.7%	11.9%
Waiver Trial/INT/6.5/PPO	139	30	21.6%
Evidentiary Hearing	3.6%	5.3%	
Jury Trial	135 3.5%	45 8.0%	33.3%
<b>Level II Total</b>	<b>1734 45.0%</b>	<b>249 44.0%</b>	<b>14.4%</b>
<b><u>Level III</u></b>			
Jury Trial	611 15.8%	112 19.8%	<b>18.3%</b>
<b>Level III Total</b>	<b>611 15.8%</b>	<b>112 19.8%</b>	<b>18.3%</b>
Prosecution Appeals of Dismissals	14 0.4%	1 0.2%	<b>0</b> 0.0%
Miscellaneous	12 0.3%	4 0.7%	<b>0</b> 0.0%
<b>GRAND TOTAL</b>	<b>3855</b>	<b>566</b>	<b>14.7%</b>

**2005 MAACS STATISTICS  
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit				PLEA/PV/ RESENTENCING			BENCH/EVIDENTIARY HEARING			JURY				
	MOTION/ PROSEC.		APPEALS	Level			Level			Level			Grand Total Total	
	MISC. RELIEF			1	2	Total	1	2	Total	1	2	3		
1st Hillsdale				19	7	26	0	0	0	0	0	1	1	27
2nd Berrien				43	41	84	0	1	1	2	1	16	19	104
3rd Wayne	5	48	13	273	331	604	51	74	125	39	31	202	272	1067
4th Jackson			1	57	50	107	0	1	1	3	4	10	17	126
5th Barry				13	13	26	0	0	0	0	1	2	3	29
6th Oakland				77	188	265	3	9	12	12	17	95	124	401
7th Genesee				104	91	195	0	0	0	3	1	22	26	221
8th Ionia/Montcalm				6	6	12	0	0	0	2	2	4	8	20
9th Kalamazoo				20	21	41	0	0	0	8	2	13	23	64
10th Saginaw				38	90	128	0	1	1	5	7	17	29	158
11th Alger/Luce Schoolcraft				2	0	2	1	0	1	0	1	4	5	8
12th Baraga/Houghton/ Keweenaw				2	0	2	0	0	0	0	0	0	0	2
13th Antrim/Grand Traverse/Leelanau		1		48	13	61	0	0	0	2	1	5	8	70

**2005 MAACS STATISTICS  
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	MOTION/ PROSEC.		PLEA/PV/ RESENTENCING			BENCH/EVIDENTIARY HEARING			JURY			Grand	
	MISC. RELIEF	APPEALS	Level			Level			Level			Total	Total
			1	2	Total	1	2	Total	1	2	3		
14th Muskegon			36	45	81	0	1	1	0	2	9	11	93
15th Branch	1		3	6	9	0	0	0	0	0	0	0	10
16th Macomb	3		103	83	186	2	0	2	7	11	33	51	242
17th Kent	2	2	44	87	131	0	3	3	4	9	39	52	190
18th Bay			20	29	49	0	0	0	2	1	8	11	60
19th Benzie/Manistee			10	2	12	0	0	0	0	0	2	2	14
20th Ottawa			2	9	11	0	0	0	1	0	3	4	15
21st Isabella			15	11	26	0	0	0	1	0	1	2	28
22nd Washtenaw			22	27	49	1	0	1	5	2	13	20	70
23rd Iosco/Oscoda			3	10	13	0	0	0	0	1	2	3	16
24th Sanilac			5	4	9	0	0	0	0	0	0	0	9
25th Marquette			5	2	7	0	0	0	1	1	1	3	10
26th Alcona/Alpena/ Montmorency/ Presque Isle			1	2	3	0	0	0	0	1	1	2	5
27th Newaygo/Oceana			6	6	12	0	0	0	0	0	0	0	12

**2005 MAACS STATISTICS  
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit				PLEA/PV/ RESENTENCING			BENCH/EVIDENTIARY HEARING			JURY				
	MOTION/ PROSEC.		APPEALS	Level			Level			Level			Total	Grand Total
	MISC. RELIEF			1	2	Total	1	2	Total	1	2	3		
28th Missaukee/Wexford				15	12	27	0	0	0	1	2	1	4	31
29th Clinton/Gratiot				7	10	17	1	0	1	2	0	1	3	21
30th Ingham				38	26	64	0	0	0	5	2	13	20	84
31st St. Clair				29	24	53	0	1	1	2	5	7	14	68
32nd Gogebic/Ontonagon				2	2	4	0	0	0	1	1	0	2	6
33rd Charlevoix				4	4	8	0	0	0	0	1	0	1	9
34th Arenac/Ogemaw Roscommon				13	12	25	0	0	0	0	1	0	1	26
35th Shiawassee				2	4	6	0	0	0	0	3	0	3	9
36th Van Buren				3	6	9	0	1	1	0	0	2	2	12
37th Calhoun				38	24	62	0	1	1	3	5	22	30	93
38th Monroe				34	19	53	0	0	0	2	0	8	10	63
39th Lenawee				22	19	41	0	0	0	2	0	2	4	45
40th Lapeer				6	10	16	0	0	0	0	3	2	5	21
41st Dickinson/Iron Menominee				2	2	4	0	0	0	0	1	1	2	6



**2005 MAACS STATISTICS  
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	MOTION/ PROSEC.			PLEA/PV/ RESENTENCING			BENCH/EVIDENTIARY HEARING			JURY			Grand	
	MISC. RELIEF	APPEALS	APPEALS	Level			Level			Level			Total	Total
				1	2	Total	1	2	Total	1	2	3		
42nd Midland				3	4	7	0	1	1	0	0	1	1	9
43rd Cass				4	9	13	0	0	0	1	2	3	6	19
44th Livington				4	8	12	1	0	1	1	0	6	7	20
45th St. Joseph	1			6	11	17	0	0	0	0	1	5	6	24
46th Crawford/Kalkaska Otsego		1		16	9	25	0	0	0	2	1	2	5	31
47th Delta				4	1	5	0	0	0	0	0	0	0	5
48th Allegan				11	22	33	1	0	1	2	5	4	11	45
49th Mecosta/Osceola				7	8	15	0	1	1	0	0	5	5	21
50th Chippewa/Mackinaw				12	4	16	0	0	0	0	0	1	1	17
51st Lake/Mason		1		4	4	8	0	0	0	0	0	0	0	9
52nd Huron				0	0	0	0	0	0	0	0	2	2	2
53rd Cheboygan				2	3	5	0	1	1	1	0	7	8	14
54th Tuscola				3	2	5	0	0	0	1	4	5	10	15
55th Clare/Gladwin				5	2	7	0	0	0	0	0	0	0	7

**2005 MAACS STATISTICS  
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	MOTION/ PROSEC.			PLEA/PV/ RESENTENCING			BENCH/EVIDENTIARY HEARING			JURY			Grand	
	MISC. RELIEF	APPEALS	APPEALS	Level			Level			Level			Total	Total
				1	2	Total	1	2	Total	1	2	3		
56th Eaton				9	19	28	0	1	1	0	1	5	6	35
57th Emmet				4	6	10	0	0	0	3	1	3	7	17
ALL CIRCUITS TOTALS	12	53	14	1286	1460	2746	61	97	158	126	135	611	872	3855
<u>Level 1</u>				1473										
<u>Level 2</u>				1692										
<u>Level 3</u>				611										
Total				3776										

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