

APPELLATE DEFENDER COMMISSION

2006 ANNUAL REPORT

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

2006 APPELLATE DEFENDER COMMISSION

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Michael J Bryanton
Governor's Designee

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Supreme Court Designee

Douglas Messing
Court of Appeals Designee

Donald E. Martin
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John E. S. Scott
State Bar Designee

Vacant
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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Chair
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ORCHARD LAKE

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COURT OF APPEALS DESIGNEE
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VACANT
GOVERNOR'S DESIGNEE

The Appellate Defender Commission is pleased to submit the 2006 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 (SADO) and an assigned counsel panel (MAACS).

Thank you for the opportunity to submit our 2006 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,

A handwritten signature in cursive script, which appears to read "Robert A. Benson". The signature is written in black ink and is positioned above the printed name.

Robert A. Benson, Chair
Appellate Defender Commission

In Memoriam

Norris J. Thomas, Jr.

State Appellate Defender Office

Chief Deputy Director

10/27/1978 - 1/3/2007

John E. S. Scott

Appellate Defender Commission

Commissioner

1979 - 2007

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 others.

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 State Appellate Defender Office began in 1969 under a Law Enforcement Assistance Administration grant awarded to the Supreme Court. 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 2006 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*; **Douglas Messing**, *Court of Appeals designee*; **Ernest J. Essad Jr.** and **Donald E. Martin**, *Supreme Court designees*; and **Michael J. Bryanton**, *Governor's designee*. Chairperson Mitchell resigned from the Commission in September of 2006.

The State Appellate Defender Office maintains a web site at 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, information on the current Commissioners is also there.

STATE APPELLATE DEFENDER OFFICE

SADO was created in 1969 under a grant awarded to 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 2006.

ANNUAL REPORT OF THE STATE APPELLATE DEFENDER OFFICE FOR JANUARY 1, 2006 THROUGH DECEMBER 31, 2006

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 felony 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) ...]. In 2006, SADO was still dealing with the effects of the United States Supreme Court decision from June of 2005 in *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% in 2005 and had to shut down to guilty plea appeals from October of 2005 through the end of December. As 2006 started, SADO reopened to plea appeals at the 10% level and remained at 10% throughout 2006. The question of the retroactive application of *Halbert* remains unanswered and is pending before the United States Sixth Circuit Court of Appeals. (*Simmons v. Kapture*, 474 F.3d 869 (2007))

MANAGING SADO'S STATE FUNDED RESOURCES/WORKLOAD

ASSIGNMENT LEVELS

For 2006, the formula for cases assigned to SADO was at 10% for the Level 1 & 2 plea categories and at 25% for all other categories.

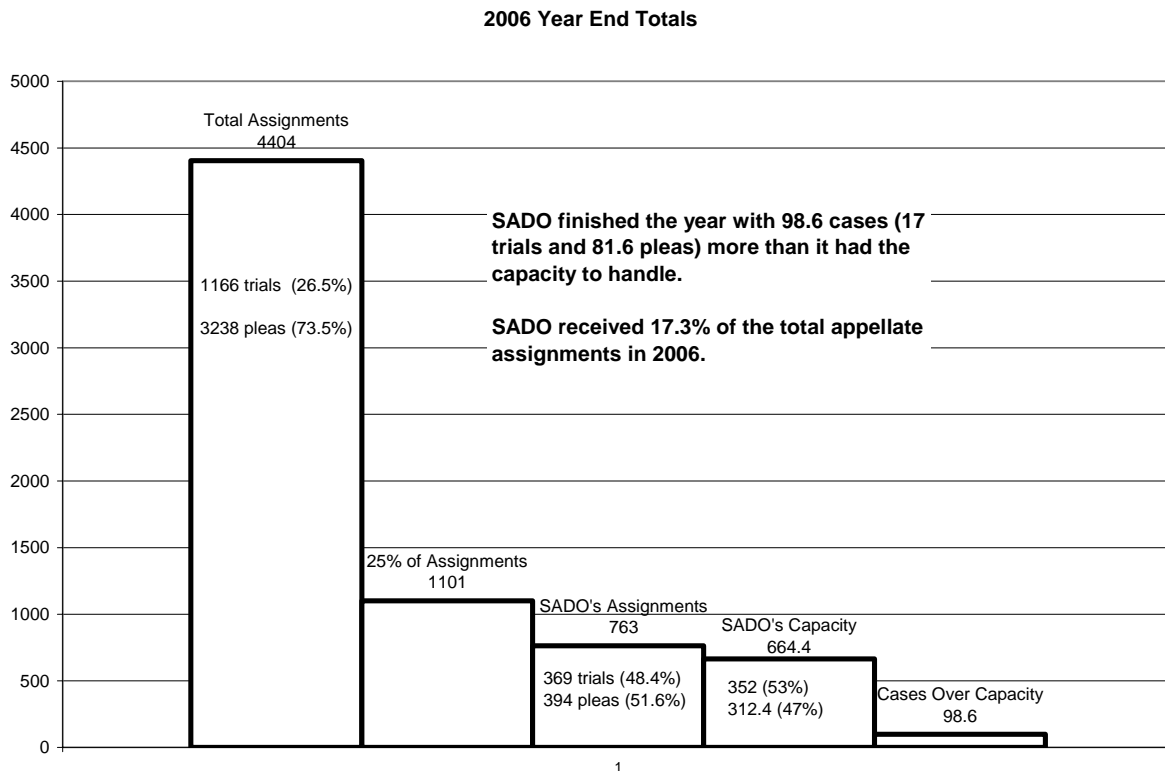
Based on 2006 year-end data, overall SADO received 17.3% of the total appellate assignments – 15.7% [271] Level 1 cases, 15.7% [331] Level 2 cases, and 28.3% [161] Level 3 cases – an amount far in excess of its capacity for the year.

SADO's capacity to handle cases is largely based on the number of staff attorneys it employs. Its assignment level for 2006 was 17.3%. Due to previous year budget cuts and staff reductions, coupled with the large influx of *Halbert*-related plea assignments, in 2006 SADO barely had the capacity to handle the 763 cases it received.

Figure 1 below indicates that SADO's capacity for 2006 was 664.4 cases. Consequently, SADO finished the year with 98.6 cases more than it had the capacity to handle.

Figure 1

SADO's Capacity¹ for 2006



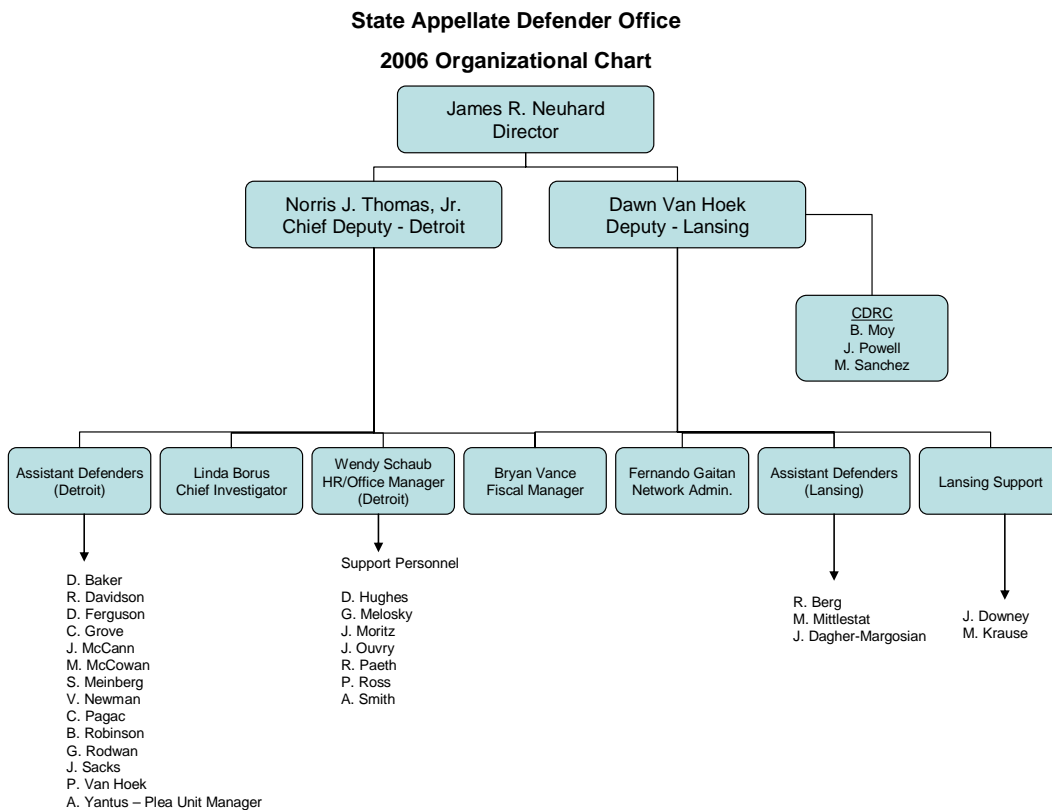
¹ Capacity is the cumulative total of new cases all SADO attorneys can accept per month under established differential case weighting standards.

SADO STAFFING AND DIRECT CLIENT SERVICES

At the end of 2006, SADO's staffing levels included 35 full-time employees and 1 part-time employee. One new attorney and a part-time secretary were hired to replace one attorney and a secretary who separated from employment. By the end of 2006, the Director, Chief Deputy Director, and 14 Assistant Defenders were housed in the Detroit (main) office; and the Deputy Director and three 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.

Below is an organizational chart that illustrates the composition of SADO's staff by the end of 2006.

Figure 2



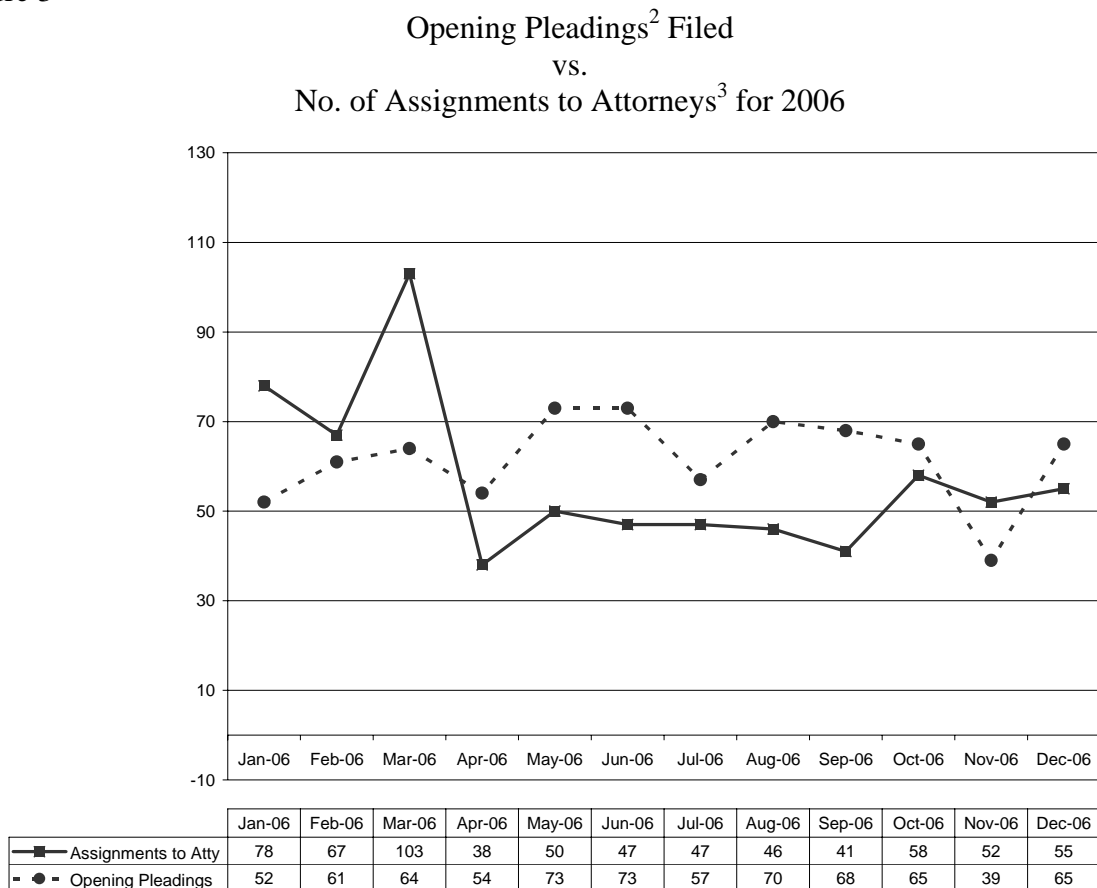
Two SADO lawyers were housed at and received secretarial/clerical and legal research support from the University of Michigan Law School while teaching the Criminal Appellate Practice Course. Two others taught the other SADO-established Criminal Appellate Practice Course at the Wayne State University 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 2006, SADO Assistant and Deputy Defenders were assigned 790 cases and produced 2,325 filings, 851 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



² 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.

³ Assignments to Attorney – when a SADO staff attorney takes responsibility for a case assigned to SADO

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.

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 46.5 cases per staff attorney in 2006 (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.⁴ In 2006, the average dismissal rate was 49%. The Unit's overall relief rate⁵ generally exceeds 37%, with a relief rate of over 90% in the cases presented on the merits to trial courts. In 2006, the average relief rate for all plea unit files was 22%, and the overall average for files where the appeal was taken was 50% for the four staff attorneys in the Unit who ably handled 75% 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.

⁴ 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.

⁵ On cases where relief is sought (excludes dismissals).

Figure 4 shows the number of pleas assigned to SADO for each county.

Figure 4

Number of Plea Appeals Assigned to SADO by County for 2006



2006 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 2006 was to handle as close to 25% of the total appellate assignments as resources would permit. However, as historically has been the case, in 2006 SADO was understaffed and under funded and therefore handled only 17.3% 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 2006 Annual Report

Primary Goals for 2006: 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 2006⁶ marked the thirtieth 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 \$277,177. 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 2006 are noteworthy:

- The "Attorney-to-Attorney" Project provided in-person support at Wayne Circuit Court and e-mail support statewide. The Project connects criminal defense attorneys with the CDRC's experienced research attorneys, who provide legal research, advice, pleadings and training. Despite well-documented need for this support, funding remains problematic.⁷ During 2006, the Wayne County Criminal Defense Attorneys Association

⁶ Due to reporting methods based on a subscription year, the time period covered by this report is October 1, 2005 to September 30, 2006.

⁷ 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 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).

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, throughout 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 launched in 2006: 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 700 criminal defense attorneys, continued its upward path in the number of messages exchanged. Messages averaged a bit over 1586 per month. 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 709 subscribers to web services, delivered as attachments to e-mail messages.
- An "umbrella" grant to the CDRC for statewide criminal defense training continued. During the report period, the CDRC obtained MCOLES funding not only for its "traditional" projects, but also for those undertaken with training partners. That training included the one-week Trial Skills College of the Criminal Defense Attorneys of Michigan (CDAM), its two large statewide advanced skills training conferences, 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.
- Partnerships with the Michigan Public Defense Task Force and the Attorney Discipline Board continued, primarily through the hosting and operation of web sites (www.mipublicdefense.org and www.adbmich.org), and other technical support provided by the CDRC.

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. MCOLES funding for the project was not awarded in 2006, due to its Commission's determination that the project did not qualify as "training." For MCOLES purposes, 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.

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 twenty-four pages of essential information to approximately 1,100 subscribers electing to receive hard copy. A growing number of subscribers (709) 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 2006. 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. All books are full-text searchable on the web site.

Asked about how frequently they use the books, 15.24% of the trainees said daily, 57.14% said weekly, 20.95% said monthly and 6.6% said less than monthly. These results reflect heavy use, as in prior years. Approximately 68% said they use the books to browse a topic to learn the law, 78% used them to quickly identify a case, rule or statute, and 80% 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, 69% said they were indispensable, and 31% said they were helpful.

C. Attorney-to-Attorney Support Project.

The CDRC continued to offer support to Michigan's criminal defense community through support projects operated in Wayne Circuit Court, and through a strictly e-mail version, called 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 opened 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, 1041 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 2006 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 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 expert and 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 2006, 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 web site (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.

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 42,742 per month during the report period (an increase from last year's average of about 35,000).

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 700 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 1586 messages per month, with many months in the 1600-1700 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. 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 709 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 709 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 subjects of "Automated Research and Writing for Criminal Defense Attorneys" and "Power Up Your Trial Presentation." Eighteen events took place, each three hours long, reaching a total of 263 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 previous years, 2006 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 2006, 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 60% 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, 16% said every time, 31% said most of the time, 33% said sometimes, 14% said rarely, and 6% 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: 43% said more than 10 hours monthly, 27% said between 5 and 10 hours monthly, 20% said under 5 hours monthly, and 10% 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, 96% responded that he was either "excellent" or "very good."

For the second 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 2006 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 continues its partnership with the Wayne County Criminal Advocacy Program and the Wayne County Criminal Defense Attorneys Association to maintain a web site that captures 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. And, CDRC staff provided significant technical assistance to the Criminal Defense Attorneys of Michigan (CDAM). 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) 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 2006 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 along with MAACS Comments to these Standards, approved by the Appellate Defender Commission, to guide MAACS in its evaluation of attorney performance and resolution of complaints from clients of roster attorneys which implicate violations of those Minimum Standards.

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, which created the vacancies outlined above. For the same funding-related reasons, these positions remained vacant throughout 2006 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.

Maintaining the Roster

A. Generally

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 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. Level 1 attorneys are restricted to the (generally) simpler types of cases and those with lower maximum sentences. Only Level 3 attorneys can be assigned to jury trials for life maximum offenses. MAACS also allows Level 3 lawyers to choose to provide representation exclusively in appeals involving trial-based convictions. For administrative, though not regulatory, purposes, these lawyers are designated as “Level 4” lawyers.

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 finished by the conclusion of 2005, but it was not completed until early in 2006.

B. 2006 Roster Maintenance

1. 2005-2006 Roster Attorney Re-application Review

At the conclusion of the 2005-2006 attorney re-application process one lawyer was not retained on the roster. That attorney did not appeal the Administrator's retention decision. Two others were reduced in Level-one from Level 3 to Level 2 and one from Level 2 to Level 1. The re-application deadline date to be considered for roster retention was not met by fifteen other lawyers. None of those lawyers were, then, eligible for retention on the roster and were removed from it.

2. *Halbert* Impact

The June 23, 2005 decision by the U.S. Supreme Court in *Halbert v Michigan*, had a varied impact on MAACS and the roster. First, the incidence of Circuits which had previously been denying the appointment of counsel in plea-based appeals was (almost) completely eliminated. This resulted in an immediate increase in the number of cases requiring the appointment of counsel on appeal. Second, defendants who had been previously and constitutionally erroneously deprived of their rights to appeal their plea-based convictions began to request appointment of counsel to appeal those older convictions. This too increased the number of cases which required appointment of counsel on appeal.

Since the effective date of Proposal B in December of 1999, and shortly thereafter, when circuit courts began to interpret that constitutional amendment to allow the denial of counsel in plea-based appeals, MAACS had not opened the roster to new membership. MAACS properly felt that there were insufficient numbers of cases to insure adequate volume of work to an increased number of lawyers and, connectedly, that insufficient numbers of cases also interferes with an individual lawyer's need to keep completely abreast of changing post-conviction jurisprudence. This changed as a result of the decision in *Halbert*.

On July 27, 2006, and after advertising the re-opening of the MAACS roster, MAACS conducted the required orientation training to allow the admission of “new” lawyers to the MAACS roster at Level 1. As a result of this process, 36 lawyers were added at that Level. Of these 26 lawyers had never been on the MAACS roster and 10 were lawyers who were returning to the roster after absences for a variety of reasons.

3. “Comparable Experience” Additions to the Roster

In 2006 the Appellate Defender Commission allowed 2 lawyers to join the roster at Level 2, after review of their work product and experience and after due consideration of the recommendations provided by MAACS administrative staff relative to those applications.

4. Summary

Throughout 2006 lawyers who joined the roster after the orientation left the roster, (in one instances, within five days of joining) and other long-standing members either left-or were removed-for health or other reasons (including, in one instance, imprisonment/suspension by the State Bar). As of December 31, 2006, there were 153 lawyers on the roster, as follows: 79 at Level 1; 42 at Level 2; 32 at Level 3 (including 11 Level 3 attorneys who choose to receive only trial-based appellate assignments). Four lawyers, while remaining on the roster, were suspended from receiving future assignments by action of the Administrator. In one case, this resulted from the lawyers inability to provide representation for health reason. In another, this was at the request of the lawyer. In the other two, the administrator determined that the lawyers involved had not responded either adequately or at all to inquiries from MAACS concerning violations of the Minimum Standards.

II. Coordinating Assignments

A. Methods

While the statute specifies that appellate counsel are to be appointed by the trial courts, the MAACS Regulations require non-judicial 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 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 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 2006, appellate counsel was assigned in 4438 cases. This figure represented a 14.8% increase from the 3875 assignments in 2005, 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 776 cases, or 17.5% 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.

Immediately following this report you will find a number of Statistical reports which fully analyze the following:

1. Plea appeals by Circuit
2. Appeals by Jurisdictional Type, by Circuit
3. Assigned Appeals by Case Type and Level, by Circuit
4. Resentencings, by Circuit
5. Changes in Appellate Assignments 2004-2006, by Circuit.
6. SADO Assigned Appeals by Case type and Level.

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 2006, and with grant funding from MCOLES, MAACS presented one Fall training program, on three dates and locations: October 6th in Grand Rapids; October 19th in Lansing; and, October 26th in Novi. This training was entitled “Issue Spotting, Post-conviction Motion Practice and Changes in Michigan Court Rules and MAACS Standards.” It involved presentations by State Appellate Defenders Anne Yantus, director of the Office’s plea unit on issue-spotting in plea-based appeals, and Marla McCowan, on issue spotting in trial-based appeals. MAACS roster member John Lazar provided the lecture on post-conviction motion practice and roster member Sherrie Guess lectured on the new court rules applicable to appeals by leave in Michigan. MAACS Administrator Thomas Harp and Deputy Administrator Lyle Marshall shared a lecture on revisions to the Minimum Standards and the MAACS Comments to those Standards and Mr. Harp concluded with an update on developments in criminal appellate practice not covered by the featured presenters. 119 members of the roster attended these programs, which received excellent evaluations. The grant also provided for the video-taping and preparation of video discs to provide to roster members who wished to demonstrate their compliance with the MAACS Continuing Legal Education Regulation requirement by these electronically preserved lectures.

The grant also allowed for the preparation and distribution of a binder which contained the Revised Minimum Standards, the MAACS Comments thereto and of the MAACS Regulations. 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. A copy of this binder was also distributed to all members of the Michigan Judiciary, to certain court staff members, to all LDAs and all members of the Legislature.

Finally, MAACS administrators offered updates and breaking news on current events in Michigan appellate defense.

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* (4th Edition), *Pleadings and their Usage in Michigan Appellate Practice*, (2nd Edition), and an *Expert Lecture Series* on a wide variety of appellate practice issues (compact disc) and the 2nd Edition of *Sample Client Letters* in either CD-ROM or written hard-copy versions. As noted above, the MAACS Standards and Commentary and the MAACS Regulations was distributed in hard-copy form in 2006.

3. MAACS also conveys information in less formal ways. It periodically sends memos in hard-copy form or, increasingly, by electronic mail, 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 2006, however, no roster lawyers requested re-classification to a higher Level.

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 2006, two lawyers were 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 involved in the representation. 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. Of this percentage, a large percentage of those involve the failure of the lawyer to have contacted the client in writing or otherwise

allegedly demonstrated a failure to keep the client aware of the status of the case. These require MAACS to write to the lawyer and request that he or she contact the client, with written confirmation that this has been done and that measures will be taken to insure that the client will remain aware of the status of the case. Most of these types of complaints are resolved by such action being taken by the lawyer involved. This remains time-consuming work, however, as, in 2006, 69 such complaints were required to be resolved by MAACS.

When a formal complaint inquiry is issued, the lawyer is asked to respond in writing to the allegation that a specific Minimum Standard or additional Standards has or have been violated during the representation. The client is given the opportunity to respond to any answer the attorney provides. MAACS conducts any independent investigation that may be necessary regarding the allegation or any additional information revealed during the course of this process which may implicate additional concerns, and then determines whether a substantial violation of the Standards has occurred.

For example, in 2006 MAACS resolved 25 formal complaints involving 20 different roster attorneys. In all of these cases, MAACS found violations of the Minimum Standards. Although the nature of these violations varied widely, by far the most common were failures to process appeals in a timely manner, failures to conduct personal confidential consultations with 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 requesting the circuit court to appoint substitute counsel or to formal removal from the MAACS roster of lawyers. Fortunately, the violations of the Minimum Standards in these twenty-five 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 post-conviction remedies or assistance with problems outside the direct regulatory of MAACS.

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 2006

Total New Appointments to SADO 1/1/06 to 12/31/06	821
Total Cases Assigned to Staff Attorneys 1/1/06 to 12/31/06	790
Total Filings by SADO 1/1/06 to 12/31/06	2,325
Cases Closed (not Done*) 1/1/06 to 12/31/06	60
Cases Officially Closed (Done*) 1/1/06 to 12/31/06	769
Total Cases Closed with Final Disposition from 1/1/06 to 12/31/06	560
Total Cases Open as of 12/31/06	1,325

* "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 2006

SADO FILINGS 1/1/06 to 12/31/06

Trial Court	745
Court of Appeals	1,354
Supreme Court	186
Federal Courts	40
Total FILINGS	2,325

MAJOR FILINGS 1/1/06 to 12/31/06

Trial Court	672
Court of Appeals	647
Supreme Court	177
Federal Courts	8
Total MAJOR FILINGS	1,504 = 65% of all filings

SADO APPOINTMENTS BY CASE TYPE 1/1/06 to 12/31/06

Pleas	388
Probation Violation Pleas	46
Jury Trials	295
Bench Trials	60
Probation Violation Trials	10
Prosecutor Appeals	2
Resentencing	17
SC Application – OTHER	0
Specials (+ PPO cases)	3
Total ASSIGNMENTS	821*

* Again, this 821 cases assignment total differs from MAACS' 763 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	1,813	106.6	2.59	609	1,234	72.6	1.76
2006	17	821	790	46.5	2,325	136.8	2.94	851	1,504	88.5	1.90

* 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 1993-2006
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	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%
2006	4,404	763 17.3%	569 12.9%	161 28.3%

* 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**

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
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
2006	444 (54%)	312 (38%)	60 (7%)	5	821

* 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
2003	749	80
2004	613	71
2005	607	57
2006	821	137

- 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* 1993-2006**

	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
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
2006	568	429 (76%)	101 (18%)	38 (7%)	25

- 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%.

**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%)
2003	1014	193 (19%)	35 (3%)
2004	785	100 (13%)	27 (3%)
2005	733	139 (19%)	19 (3%)
2006	806	181 (22%)	30 (4%)

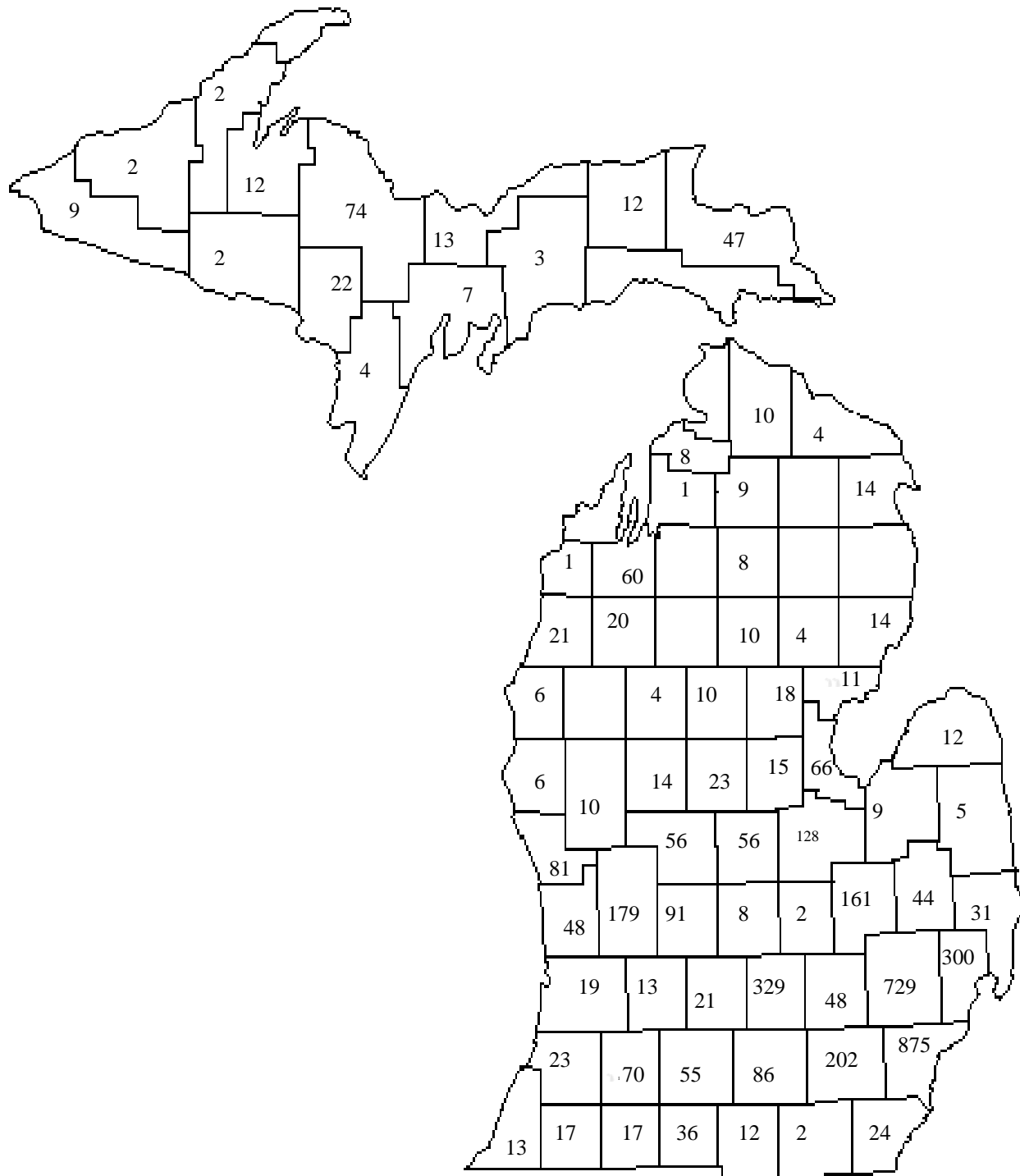
* Dismissals usually occur after complete review of the case and consultation with the client. This generally involves much substantive work for the defense attorney, but only minor or no work for the courts and prosecutors, and, thus, conserves scarce justice system resources. SADO does not use the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

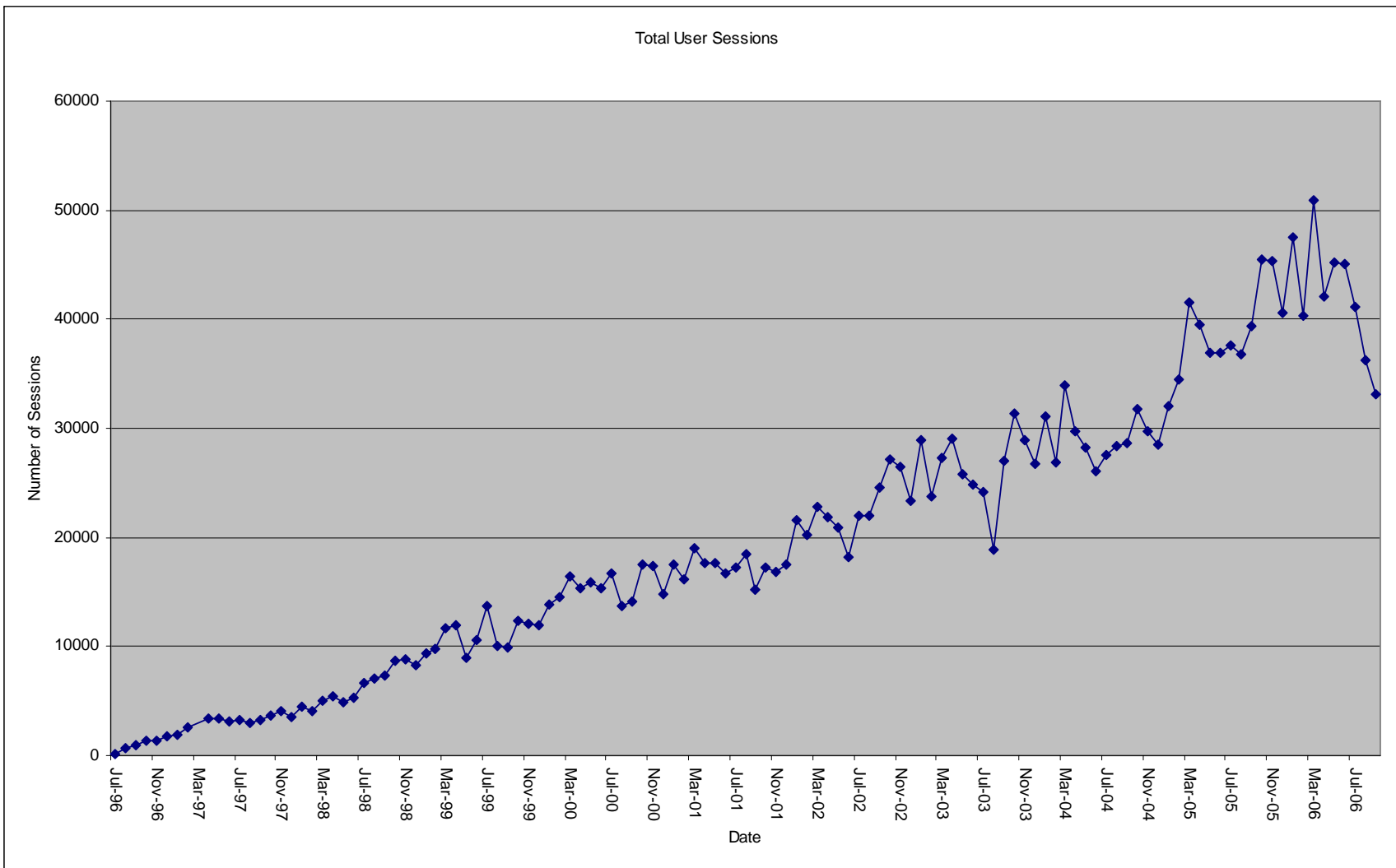
**STATE APPELLATE DEFENDER OFFICE
CRIMINAL DEFENSE RESOURCE CENTER
APPENDICES**

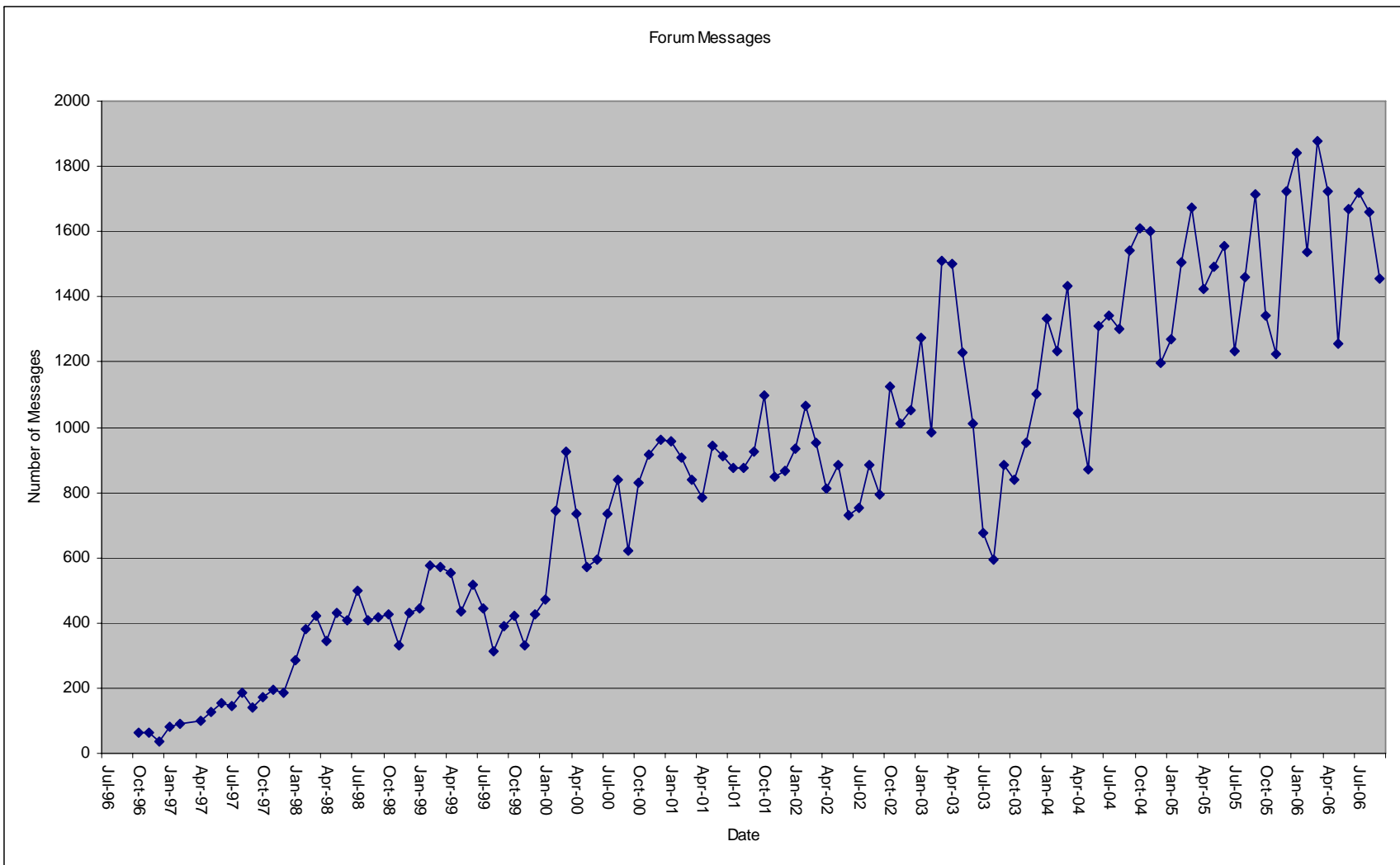
**Geographic Representation of
Subscriptions to Project Services⁸**

October 1, 2005 - September 30, 2006



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





**Forum Messages by Day of Week
October, 2005 – September, 2006**

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
October, 2005	70	224	250	262	273	205	59
November, 2005	44	235	335	293	154	134	29
December, 2005	99	225	221	270	360	419	128
January, 2006	110	334	390	340	317	246	106
February, 2006	98	246	254	239	337	266	96
March, 2006	46	251	324	411	382	388	75
April, 2006	57	232	275	325	339	431	65
May, 2006	46	182	217	294	266	187	64
June, 2006	47	254	291	306	413	288	71
July, 2006	117	311	291	307	341	269	84
August, 2006	67	257	341	364	334	243	52
September, 2006	64	219	312	287	231	275	68
Totals	865	2970	3501	3698	3747	3351	897
Total Messages Sent	19029						

**WCCDA (FMHJ) Grant
Attorney-to-Attorney Support Service
October, 2005 through September, 2006**

1. Number of contacts with service

Total	FMHJ
1041	1041

2. Number of attorneys using service:

Total	FMHJ
196	196

3. Method of contact:

	FMHJ
E-mail	29
Telephone	41
In-Person	971
Mail	0
Other	0

4. Nature of presenting issues:

Total	FMHJ
Trial	763
Appellate	63
Plea	24
Sentencing	78
Web	4
Software	0
Forum	0
Research	14
Other	95

5. Nature of solutions provided: *

Identify/discuss legal issues:	733
Discuss strategy	344
Discuss procedure	234
Provide pleadings (from our databases, including packets)	39
Provide legal research (including citations & experts)	395
Train on web research	62
Troubleshoot technical problem	39
Provide forms (other sources, SCAO, CJI)	27
Referral to another agency or attorney	14
Other	88

* some contacts involve solutions in two categories.

**MICHIGAN APPELLATE ASSIGNED COUNSEL
SYSTEM APPENDICES**

MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM
 PLEA APPEALS FROM
 JANUARY 1, 2006 TO DECEMBER 31, 2006

CIRCUIT	PLEA APPEALS	CIRCUIT	PLEA APPEALS	CIRCUIT	PLEA APPEALS
1st	25	17th	190	33rd	6
Hillsdale 2nd	127	Kent 18th	73	Charlevoix 34th	14
Berrien 3rd	614	Bay 19th	9	Arenac/Ogemaw/ Roscommon	
Wayne		Benzie/Manistee		35th Shiawassee	11
4th Jackson	91	20th Ottawa	26	36th Van Buren	17
5th Barry	23	21st Isabella	24	37th Calhoun	74
6th Oakland	324	22nd Washtenaw	50	38th Monroe	63
7th Genesee	184	23rd Iosco/Oscoda	20	39th Lenawee	54
8th Ionia/Montcalm	20	24th Sanilac	4	40th Lapeer	8
9th Kalamazoo	93	25th Marquette	4	41st Dickinson/Iron/ Menominee	6
10th Saginaw	98	26th Alcona/Alpena Montmorency/Presque Isle	10	42nd Midland	22
11th Alger/Luce Schoolcraft	5	27th Newaygo/Oceana	19	43rd Cass	19
12th Baraba/Houghton/ Keweenaw	7	28th Missaukee/Wexford	14	44th Livingston	17
13th Antrim/Grand Traverse/Leelanau	44	29th Clinton/Gratiot	32	45th St. Joseph	25
14th Muskegon	110	30th Ingham	69	46th Crawford/Kalkaska/ Otsego	27
		31st St. Clair	32		

15th Branch	9	32nd Gogebic/Ontonagon	1	47th Delta	9
16th Macomb	199				

**MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM
PLEA APPEALS FROM
JANUARY 1, 2006 TO DECEMBER 31, 2006**

CIRCUIT	PLEA APPEALS
48th	47
Allegan 49th	15
Mecosta/Osceola 50th	12
Chippewa/Mackinac 51st	12
Lake/Mason 52nd	1
Huron 53rd	16
Cheboygan 54th	3
Tuscola 55th	18
Clare/Gladwin 56th	45
Eaton 57th	13
Emmet TOTAL	3104

**2006
ASSIGNED APPEALS BY JURISDICTIONAL TYPE**

Circuit	CLAIM			APPLICATION			RESPONSE			Grand Total			
	Trials	Pleas	Other	Total	Trials	Pleas	Other	Total	Trials		Pleas	Other	Total
1st Hillsdale	1	0	0	1	0	25	1	26	0	0	0	0	27
2nd Berrien	19	0	1	20	5	127	0	132	0	0	0	0	152
3rd Wayne	382	4	14	400	40	610	129	779	0	0	0	0	1179
4th Jackson	24	0	0	24	2	91	6	99	0	0	0	0	123
5th Barry	2	0	0	2	0	23	0	23	0	0	0	0	25
6th Oakland	137	0	5	142	12	324	7	343	0	0	0	0	485
7th Genesee	14	1	1	16	3	183	9	195	0	0	0	0	211
8th Ionia/Montcalm	9	0	0	9	0	20	2	22	0	0	0	0	31
9th Kalamazoo	23	1	1	25	0	92	0	92	0	0	0	0	117
10th Saginaw	30	0	0	30	7	98	6	111	0	0	0	0	141
11th Alger/Luce Schoolcraft	4	0	0	4	0	5	0	5	0	0	0	0	9
12th Baraga/Houghton/Keweenaw	1	0	0	1	0	7	0	7	0	0	0	0	8

13th Antrim/Grand Traverse/Leelanau	4	2	0	6	2	42	3	47	0	0	0	0	53
14th Muskegon	13	0	1	14	2	110	3	115	0	0	0	0	129
15th Branch	1	0	0	1	1	9	3	13	0	0	0	0	14
16th Macomb	56	2	1	59	1	197	6	204	0	0	0	0	263
17th Kent	40	0	2	42	2	190	1	193	0	0	0	0	235
18th Bay	7	0	0	7	0	73	4	77	0	0	0	0	84
19th Benzie/Manistee	0	1	0	1	0	8	0	8	0	0	0	0	9
20th Ottawa	9	0	0	9	2	26	1	29	0	0	0	0	38
21st Isabella	7	0	0	7	0	24	3	27	0	0	0	0	34
22nd Washtenaw	18	0	0	18	2	50	2	54	0	0	0	0	72
23rd Iosco/Oscoda	2	0	0	2	0	20	0	20	0	0	0	0	22
24th Sanilac	0	0	0	0	0	4	0	4	0	0	0	0	4
25th Marquette	3	0	0	3	0	4	0	4	0	0	0	0	7
26th Alcona/Alpena/ Montmorency/ Presque Isle	3	0	0	3	0	10	0	10	0	0	0	0	13
27th Newaygo/Oceana	0	0	0	0	0	19	0	19	0	0	0	0	19
28th Missaukee/Wexford	0	0	1	1	0	14	1	15	0	0	0	0	16
29th Clinton/Gratiot	5	0	0	5	0	32	0	32	0	0	0	0	37

30th Ingham	26	0	1	27	0	69	8	77	0	0	0	0	104
31st St. Clair	17	0	0	17	3	32	4	39	0	0	0	0	56
32nd Gogebic/Ontonagon	2	0	0	2	1	1	0	2	0	0	0	0	4
33rd Charlevoix	3	0	0	3	0	6	2	8	0	0	0	0	11
34th Arenac/Ogemaw	5	0	0	5	0	14	0	14	0	0	0	0	19
35th Roscommon	8	0	1	9	0	11	0	11	0	0	0	0	20
36th Shiawassee	3	0	0	3	0	17	0	17	0	0	0	0	20
37th Van Buren	19	3	1	23	2	71	3	76	0	0	0	0	99
38th Calhoun	10	0	0	10	1	63	0	64	0	0	0	0	74
39th Monroe	1	0	0	1	0	54	0	54	0	0	0	0	55
40th Lenawee	3	0	0	3	0	8	0	8	0	0	0	0	11
41st Lapeer	3	0	0	3	0	6	0	6	0	0	0	0	9
Dickinson/Iron													
Menominee													
42nd Midland	4	0	0	4	0	22	0	22	0	0	0	0	26
43rd Cass	5	0	1	6	2	19	0	21	0	0	0	0	27
44th Livingston	11	0	0	11	1	17	0	18	0	0	0	0	29
45th St. Joseph	2	0	0	2	0	25	2	27	0	0	0	0	29
46th Crawford/Kalkaska	3	0	2	5	1	27	1	29	0	0	0	0	34
Otsego													

47th	4	0	0	4	0	9	0	9	0	0	0	0	13
Delta													
48th	9	0	1	10	1	47	3	51	0	0	0	0	61
Allegan													
49th	4	0	0	4	0	15	2	17	0	0	0	0	21
Mecosta/Osceola													
50th	4	0	0	4	0	12	0	12	0	0	0	0	16
Chippewa/Mackinaw													
51st	5	0	0	5	0	12	1	13	0	0	0	0	18
Lake/Mason													
52nd	3	0	0	3	0	1	0	1	0	0	0	0	4
Huron													
53rd	2	0	0	2	0	16	3	19	0	0	0	0	21
Cheboygan													
54th	4	0	0	4	0	3	0	3	0	0	0	0	7
Tuscola													
55th	0	0	0	0	0	18	1	19	0	0	0	0	19
Clare/Gladwin													
56th	7	0	2	9	0	45	1	46	0	0	0	0	55
Eaton													
57th	6	0	0	6	0	13	0	13	0	0	0	0	19
Emmet													
ALL CIRCUITS	987	14	36	1037	93	3090	218	3401	0	0	0	0	4438
TOTALS													

**2006 MAACS STATISTICS
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	MISC.	MOTION/ RELIEF	PROSEC. APPEALS	PLEA/PV/ RESENTENCING			BENCH/EVIDENTIARY HEARING			JURY			Grand Total	
				1	Level 2	Total	1	2	Total	1	Level 2	3		Total
1st Hillsdale				23	3	26	0	0	0	0	1	0	1	27
2nd Berrien				75	53	128	0	0	0	4	5	15	24	152
3rd Wayne	6		12	252	406	658	83	151	234	44	44	181	269	1179
4th Jackson			1	55	41	96	1	0	1	2	7	16	25	123
5th Barry				18	5	23	0	0	0	0	0	2	2	25
6th Oakland				84	252	336	2	7	9	16	30	94	140	485
7th Genesee				88	106	194	0	1	1	0	2	14	16	211
8th Ionia/Montcalm				11	11	22	0	0	0	1	3	5	9	31
9th Kalamazoo				44	50	94	1	0	1	5	4	13	22	117
10th Saginaw				43	59	102	3	1	4	3	8	24	35	141
11th Alger/Luce Schoolcraft				2	3	5	0	0	0	0	1	3	4	9
12th Baraga/Houghton/ Keweenaw				6	1	7	0	0	0	0	1	0	1	8

13th Antrim/Grand Traverse/Leelanau		34	13	47	0	0	0	2	1	3	6	53
14th Muskegon		45	69	114	0	5	5	0	1	9	10	129
15th Branch	1	3	7	10	0	1	1	1	1	0	2	14
16th Macomb	1	127	78	205	1	0	1	8	10	38	56	263
17th Kent		73	120	193	1	2	3	3	6	30	39	235
18th Bay		31	46	77	0	0	0	2	1	4	7	84
19th Benzie/Manistee		8	1	9	0	0	0	0	0	0	0	9
20th Ottawa		9	18	27	0	0	0	2	2	7	11	38
21st Isabella		17	10	27	1	0	1	2	1	3	6	34
22nd Washtenaw		29	23	52	0	0	0	3	5	12	20	72
23rd Iosco/Oscoda		8	12	20	0	0	0	1	1	0	2	22
24th Sanilac		4	0	4	0	0	0	0	0	0	0	4
25th Marquette		2	2	4	0	0	0	1	1	1	3	7
26th Alcona/Alpena/ Montmorency/ Presque Isle		5	5	10	0	0	0	0	0	3	3	13
27th Newaygo/Oceana		9	10	19	0	0	0	0	0	0	0	19
28th Missaukee/Wexford		11	5	16	0	0	0	0	0	0	0	16
29th Clinton/Gratiot		16	16	32	1	0	1	1	2	1	4	37

30th Ingham	35	43	78	0	1	1	2	7	16	25	104
31st St. Clair	17	18	35	0	1	1	1	6	13	20	56
32nd Gogebic/Ontonagon	1	0	1	0	0	0	0	3	0	3	4
33rd Charlevoix	5	2	7	1	1	2	0	1	1	2	11
34th Arenac/Ogemaw	6	8	14	0	0	0	0	3	2	5	19
Roscommon 35th	5	7	12	0	0	0	0	3	5	8	20
Shiawassee 36th	9	8	17	0	0	0	0	0	3	3	20
Van Buren 37th	54	23	77	2	1	3	5	4	10	19	99
Calhoun 38th	21	42	63	1	1	2	2	2	5	9	74
Monroe 39th	44	10	54	0	0	0	0	1	0	1	55
Lenawee 40th	6	2	8	0	0	0	1	1	1	3	11
Lapeer 41st	2	4	6	1	0	1	0	1	1	2	9
Dickinson/Iron Menominee	10	12	22	0	0	0	0	2	2	4	26
42nd Midland	9	11	20	0	2	2	0	3	2	5	27
43rd Cass	9	8	17	0	0	0	1	4	7	12	29
44th Livington	9	18	27	0	0	0	1	0	1	2	29
45th St. Joseph	12	18	30	0	0	0	0	1	3	4	34
46th Crawford/Kalkaska Otsego											

47th				9	0	9	0	0	0	2	1	1	4	13
Delta														
48th				22	29	51	1	0	1	2	4	3	9	61
Allegan														
49th				11	6	17	0	1	1	2	0	1	3	21
Mecosta/Osceola														
50th				9	4	13	1	0	1	1	1	0	2	16
Chippewa/Mackinaw														
51st	1			9	3	12	0	1	1	2	0	2	4	18
Lake/Mason														
52nd				1	0	1	0	1	1	1	0	1	2	4
Huron														
53rd				10	9	19	0	0	0	1	0	1	2	21
Cheboygan														
54th				2	1	3	0	0	0	0	2	2	4	7
Tuscola														
55th				13	6	19	0	0	0	0	0	0	0	19
Clare/Gladwin														
56th				23	23	46	2	0	2	0	0	7	7	55
Eaton														
57th				7	6	13	0	0	0	0	2	4	6	19
Emmet														
ALL CIRCUITS	6	0	16	1502	1746	3248	103	178	281	125	190	572	887	4438
TOTALS														
Level 1				1730										
Level 2				2114										
Level 3				572										
Total				4416										

**RESENTENCINGS
1/1/06 TO 12/31/06**

<u>CIRCUIT</u>	<u>TOTAL CASES</u>	<u>LEVEL I</u>					<u>LEVEL II</u>				
		<u>PL</u>	<u>PVP</u>	<u>PVH</u>	<u>JT</u>	<u>WT</u>	<u>PL</u>	<u>PVP</u>	<u>PVH</u>	<u>JT</u>	<u>WT</u>
1	1	1									
2	1								1		
3	33	5			1		15		6	6	
4	2						2				
6	9	1			1			4		3	
7	10	1					8			1	
8	1	1									
9	1										1
10	2						2				
13	3	2					1				
14	2	1					1				
15	1						1				
16	5	1					3			1	
20	1	1									
21	2						2				
22	2	2									
30	5	1					2			2	
31	2	1					1				
33	1	1									
35	1									1	
37	1										1
45	2						2				
46	2	1									1

48	3			1		1		1
55	1		1					
TOTAL	94		21	0	0	3	0	41 4 0 17 8

**PLEA CASES
1/1/06 TO 12/31/06**

	TOTAL	LEVEL I	LEVEL II
PLEAS	62	21	41
PVP	4	0	4

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**APPELLATE ASSIGNMENTS
CHANGES BY CIRCUIT 2004-2006**

	2004 TOTAL	2005 TOTAL	04-05 % CHANGE #/%	2006 TOTAL	05-06 % CHANGE #/%	04-06 % CHANGE #/%
1st Hillsdale	15	27	12 80.0%	27	0 0.0%	12 80.0%
2nd Berrien	30	104	74 246.7%	152	48 46.2%	122 406.7%
3rd Wayne	1066	1067	1 0.1%	1179	112 10.5%	113 10.6%
4th Jackson	71	126	55 77.5%	123	-3 -2.4%	52 73.2%
5th Barry	7	29	22 314.3%	25	-4 -13.8%	18 257.1%
6th Oakland	443	401	-42 -9.5%	485	84 20.9%	42 9.5%
7th Genesee	257	221	-36 -14.0%	211	-10 -4.5%	-46 -17.9%
8th Ionia/Montcalm	6	20	14 233.3%	31	11 55.0%	25 416.7%
9th Kalamazoo	43	64	21 48.8%	117	53 82.8%	74 172.1%
10th Saginaw	56	158	102 182.1%	141	-17 -10.8%	85 151.8%
11th Alger/Luce Schoolcraft	4	8	4 100.0%	9	1 12.5%	5 125.0%
12th Baraga/Houghton/ Keweenaw	1	2	1 100.0%	8	6 300.0%	7 700.0%
13th Antrim/Grand	52	70	18 34.6%	53	-17 -24.3%	1 1.9%
14th Traverse/Leelanau	146	93	-53	129	36	-17

Muskegon			-36.3%		38.7%	-11.6%
15th	8	10	2	14	4	6
Branch			25.0%		40.0%	75.0%
16th	246	242	-4	263	21	17
Macomb			-1.6%		8.7%	6.9%
17th	62	190	128	235	45	173
Kent			206.5%		23.7%	279.0%
18th	45	60	15	84	24	39
Bay			33.3%		40.0%	86.7%
19th	16	14	-2	9	-5	-7
Benzie/Manistee			-12.5%		-35.7%	-43.8%
20th	13	15	2	38	23	25
Ottawa			15.4%		153.3%	192.3%
21st	30	28	-2	34	6	4
Isabella			-6.7%		21.4%	13.3%
22nd	83	70	-13	72	2	-11
Washtenaw			-15.7%		2.9%	-13.3%
23rd	3	16	13	22	6	19
Iosco/Oscoda			433.3%		37.5%	633.3%
24th	2	9	7	4	-5	2
Sanilac			350.0%		-55.6%	100.0%
25th	7	10	3	7	-3	0
Marquette			42.9%		-30.0%	0.0%
26th	7	5	-2	13	8	6
Alcona/Alpena/ Montmorency/ Presque Isle			-28.6%		160.0%	85.7%
27th	26	12	-14	19	7	-7
Newaygo/Oceana			-53.8%		58.3%	-26.9%
28th	13	31	18	16	-15	3
Missaukee/Wexford			138.5%		-48.4%	23.1%
29th	18	21	3	37	16	19
Clinton/Gratiot			16.7%		76.2%	105.6%
30th	72	84	12	104	20	32
Ingham			16.7%		23.8%	44.4%
31st	50	68	18	56	-12	6

St. Clair			36.0%			-17.6%	12.0%
32nd	2	6	4	4		-2	2
Gogebic/Ontonagon			200.0%			-33.3%	100.0%
33rd	12	9	-3	11		2	-1
Charlevoix			-25.0%			22.2%	-8.3%
34th	4	26	22	19		-7	15
Arenac/Ogemaw			550.0%			-26.9%	375.0%
Roscommon							
35th	3	9	6	20		11	17
Shiawassee			200.0%			122.2%	566.7%
36th	17	12	-5	20		8	3
Van Buren			-29.4%			66.7%	17.6%
37th	110	93	-17	99		6	-11
Calhoun			-15.5%			6.5%	-10.0%
38th	48	63	15	74		11	26
Monroe			31.3%			17.5%	54.2%
39th	30	45	15	55		10	25
Lenawee			50.0%			22.2%	83.3%
40th	2	21	19	11		-10	9
Lapeer			950.0%			-47.6%	450.0%
41st	15	6	-9	9		3	-6
Dickinson/Iron			-60.0%			50.0%	-40.0%
Menominee							
42nd	24	9	-15	26		17	2
Midland			-62.5%			188.9%	8.3%
43rd	26	19	-7	27		8	1
Cass			-26.9%			42.1%	3.8%
44th	32	20	-12	29		9	-3
Livingston			-37.5%			45.0%	-9.4%
45th	26	24	-2	29		5	3
St. Joseph			-7.7%			20.8%	11.5%
46th	26	31	5	34		3	8
Crawford/Kalkaska			19.2%			9.7%	30.8%
Otsego							
47th	9	5	-4	13		8	4
Delta			-44.4%			160.0%	44.4%
48th	27	45	18	61		16	34

Allegan			66.7%		35.6%	125.9%
49th	19	21	2	21	0	2
Mecosta/Osceola			10.5%		0.0%	10.5%
50th	17	17	0	16	-1	-1
Chippewa/Mackinaw			0.0%		-5.9%	-5.9%
51st	10	9	-1	18	9	8
Lake/Mason			-10.0%		100.0%	80.0%
52nd	2	2	0	4	2	2
Huron			0.00%		100.0%	100.0%
53rd	7	14	7	21	7	14
Cheboygan			100.0%		50.0%	200.0%
54th	23	15	-8	7	-8	-16
Tuscola			-34.8%		-53.3%	-69.6%
55th	3	7	4	19	12	16
Clare/Gladwin			133.3%		171.4%	533.3%
56th	24	35	11	55	20	31
Eaton			45.8%		57.1%	129.2%
57th	15	17	2	19	2	4
Emmet			13.3%		11.8%	26.7%
All Circuit Totals	3,431	3,855	424	4,438	583	1007
			12.4%		15.1%	29.4%

**2006 MAACS STATISTICS
SADO ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	MISC.	MOTION/ RELIEF	PROSEC. APPEALS	PLEA/PV/ RESENTENCING			BENCH/EVIDENTIARY HEARING			1	JURY Level			Grand Total
				Level 1	2	Total	1	2	Total		2	3	Total	
1st Hillsdale				3	1	4	0	0	0	0	1	0	1	5
2nd Berrien				8	5	13	0	0	0	1	1	4	6	19
3rd Wayne	1			25	40	65	20	40	60	11	11	46	68	194
4th Jackson				6	4	10	1	0	1	1	2	4	7	18
5th Barry				2	1	3	0	0	0	0	0	1	1	4
6th Oakland				9	26	35	1	2	3	4	8	25	37	75
7th Genesee				9	11	20	0	1	1	0	1	3	4	25
8th Ionia/Montcalm				1	2	3	0	0	0	1	1	1	3	6
9th Kalamazoo				4	5	9	1	0	1	1	1	3	5	15
10th Saginaw				5	6	11	1	1	2	1	3	6	10	23
11th Alger/Luce Schoolcraft				1	1	2	0	0	0	0	1	1	2	4
12th Baraga/Houghton/				1	1	2	0	0	0	0	1	0	1	3

Keweenaw 13th	4	3	7	0	0	0	1	0	1	2	9
Antrim/Grand Traverse/Leelanau 14th	5	7	12	0	1	1	0	1	2	3	16
Muskegon 15th	1	1	2	0	1	1	1	1	0	2	5
Branch 16th	13	8	21	1	0	1	2	3	11	16	38
Macomb 17th	8	13	21	1	1	2	2	1	8	11	34
Kent 18th	5	5	10	0	0	0	1	1	1	3	13
Bay 19th	3	1	4	0	0	0	0	0	0	0	4
Benzie/Manistee 20th	2	2	4	0	0	0	1	1	2	4	8
Ottawa 21st	2	1	3	1	0	1	1	1	2	4	8
Isabella 22nd	3	3	6	0	0	0	1	1	3	5	11
Washtenaw 23rd	2	2	4	0	0	0	1	1	0	2	6
Iosco/Oscoda 24th	1	0	1	0	0	0	0	0	0	0	1
Sanilac 25th	1	1	2	0	0	0	1	1	1	3	5
Marquette 26th	1	1	2	0	0	0	0	0	2	2	4
Alcona/Alpena/ Montmorency/ Presque Isle 27th	1	1	2	0	0	0	0	0	0	0	2
Newaygo/Oceana 28th	2	2	4	0	0	0	0	0	0	0	4
Missaukee/Wexford 29th	2	3	5	1	0	1	1	1	1	3	9

Clinton/Gratiot 30th	4	5	9	0	1	1	1	2	4	7	17
Ingham 31st	4	3	7	0	0	0	0	2	3	5	12
St. Clair 32nd	0	0	0	0	0	0	0	1	0	1	1
Gogebic/Ontonagon 33rd	1	1	2	1	1	2	0	1	1	2	6
Charlevoix 34th	2	1	3	0	0	0	0	1	1	2	5
Arenac/Ogemaw Roscommon 35th	2	1	3	0	0	0	0	1	2	3	6
Shiawassee 36th	1	1	2	0	0	0	0	0	1	1	3
Van Buren 37th	5	3	8	1	1	2	2	1	3	6	16
Calhoun 38th	2	7	9	1	1	2	1	2	2	5	16
Monroe 39th	10	6	16	0	0	0	0	1	0	1	17
Lenawee 40th	1	1	2	0	0	0	1	1	1	3	5
Lapeer 41st	1	1	2	1	0	1	0	1	1	2	5
Dickinson/Iron Menominee 42nd	1	2	3	0	0	0	0	1	1	2	5
Midland 43rd	1	1	2	0	1	1	0	1	1	2	5
Cass 44th	1	1	2	0	0	0	1	1	3	5	7
Livington 45th	2	1	3	0	0	0	1	0	1	2	5
St. Joseph 46th	2	2	4	0	0	0	0	1	1	2	6
Crawford/Kalkaska											

Otsego														
47th				1	0	1	0	0	0	1	1	1	3	4
Delta														
48th				3	3	6	1	0	1	1	2	1	4	11
Allegan														
49th				1	1	2	0	1	1	1	0	1	2	5
Mecosta/Osceola														
50th				1	1	2	1	0	1	1	1	0	2	5
Chippewa/Mackinaw														
51st				4	2	6	0	1	1	1	0	1	2	9
Lake/Mason														
52nd				1	0	1	0	1	1	1	0	1	2	4
Huron														
53rd				1	2	3	0	0	0	1	0	1	2	5
Cheboygan														
54th				1	1	2	0	0	0	0	1	1	2	4
Tuscola														
55th				3	1	4	0	0	0	0	0	0	0	4
Clare/Gladwin														
56th				6	3	9	2	0	2	0	0	2	2	13
Eaton														
57th				4	1	5	0	0	0	0	1	1	2	7
Emmet														
ALL CIRCUITS	1													
TOTALS		0	0	196	209	405	36	55	91	47	68	164	279	776
Level 1														
Level 2														
Level 3														
Total														

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**APPELLATE ASSIGNMENTS
JANUARY 1, 2006 TO DECEMBER 31, 2006**

	Total No. ---	SADO No. ---	SADO Percent of Total Case Type
	Percent of Grand Total	Percent of SADO Total	
Level I			
Plea/PV/Resentencing	1502 33.8%	195 25.1%	13.0%
Waiver Trial/INT/6.5/PPO Evidentiary Hearing	103 2.3%	36 4.6%	35.0%
Jury Trial	125 2.8%	48 6.2%	38.4%
Level I Total	1730 39.0%	279 36.0%	16.1%
Level II			
Plea/PV/Resentencing	1746 39.3%	209 26.9%	12.0%
Waiver Trial/INT/6.5/PPO Evidentiary Hearing	178 4.0%	55 7.1%	30.9%
Jury Trial	190 4.3%	68 8.8%	35.8%
Level II Total	2114 47.6%	332 42.8%	15.7%
Level III			
Jury Trial	572 12.9%	164 21.1%	28.7%
Level III Total	572 12.9%	164 21.1%	28.7%
Prosecution Appeals of Dismissals	16 0.4%	0 0.0%	0.0%
Miscellaneous	6 0.1%	1 0.1%	16.7%
GRAND TOTAL	4438	776	17.5%