

APPELLATE DEFENDER COMMISSION

2007 ANNUAL REPORT

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

2007 APPELLATE DEFENDER COMMISSION

Honorable Robert A. Benson, Chair
Michigan Judges Association Designee

Vacant
Governor's Designee

Ernest J. Essad, Jr.
Supreme Court Designee

Douglas Messing
Court of Appeals Designee

Donald E. Martin
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Judith Gracey
State Bar Designee

John Nussbaumer
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James R. Neuhard, Director
State Appellate Defender Office

Thomas Harp, Administrator
Michigan Appellate Assigned Counsel System

APPELLATE DEFENDER COMMISSION

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May 21, 2008

The Appellate Defender Commission is pleased to submit the 2007 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 2007 Annual Report. For additional information, please feel free to contact Thomas Harp, Administrator of the Michigan Appellate Assigned Counsel System, James R. Neuhard, Director of the State Appellate Defender Office, or myself.

Sincerely,

Robert A. Benson, Chair
Appellate Defender Commission

MISSION STATEMENTS

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

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

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

STATE APPELLATE DEFENDER OFFICE

GOALS

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

OBJECTIVES

- Maintain quality.
- Avoid unnecessary delay.
- Increase efficiency through innovation and automation.
- Reduce cost to counties (which pay for all appeals handled by private assigned counsel) by changing case allocation formula to assign SADO more costly, complex Level 3 cases while maintaining and supporting a mixed system of representation.
- Lower assigned counsel costs by reducing attorneys' need to duplicate work already done by SADO and 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 2007 Commissioners were: **Honorable Robert A. Benson** (Chair), *Michigan Judges Association designee*; **John Nussbaumer** and **Judith Gracey**, *State Bar designees*; **Douglas Messing**, *Court of Appeals designee*; **Ernest J. Essad Jr.** and **Donald E. Martin**, *Supreme Court designees*; and **Mike Bryanton**, the *Governor's designee*. Commissioner Bryanton resigned from the Commission in August of 2007.

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, 2007 THROUGH DECEMBER 31, 2007

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 2007, 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 and 2007 because SADO did not have the funding and resources to handle the increase in plea appeals.

During the budget hearings in 2007, the legislature required the Michigan Supreme Court to prepare a report to be submitted in 2008 that would address the impact of *Halbert* on the appellate system, particularly SADO.

MANAGING SADO'S STATE FUNDED RESOURCES/WORKLOAD

ASSIGNMENT LEVELS

For 2007, the formula for cases assigned to SADO was at 10% for the Level 1 & 2 plea categories and at 25% for all other categories.

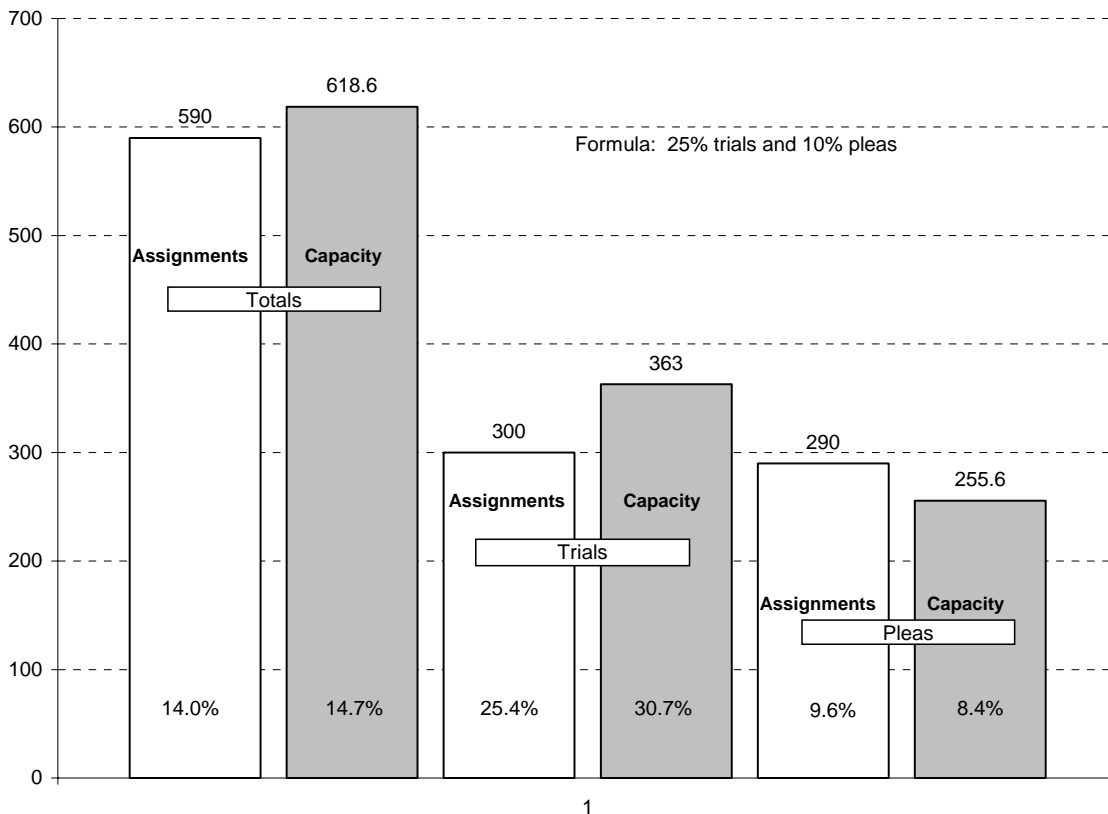
Based on 2007 year-end data, overall SADO received 14.0% of the total appellate assignments – 11.8% [186] Level 1 cases, 12.4% [250] Level 2 cases, and 26.1% [154] Level 3 cases.

SADO's capacity to handle cases is largely based on the number of staff attorneys it employs. Its assignment level for 2007 was 14.0%. Due to previous year budget cuts and staff reductions, coupled with the large influx of *Halbert*-related plea assignments, in 2007 SADO had the capacity to handle 14.7% of the appellate assignments.

Figure 1 below illustrates SADO's capacity versus its assignments levels for 2007.

SADO's Capacity¹ vs. Intake for 2007

Figure 1

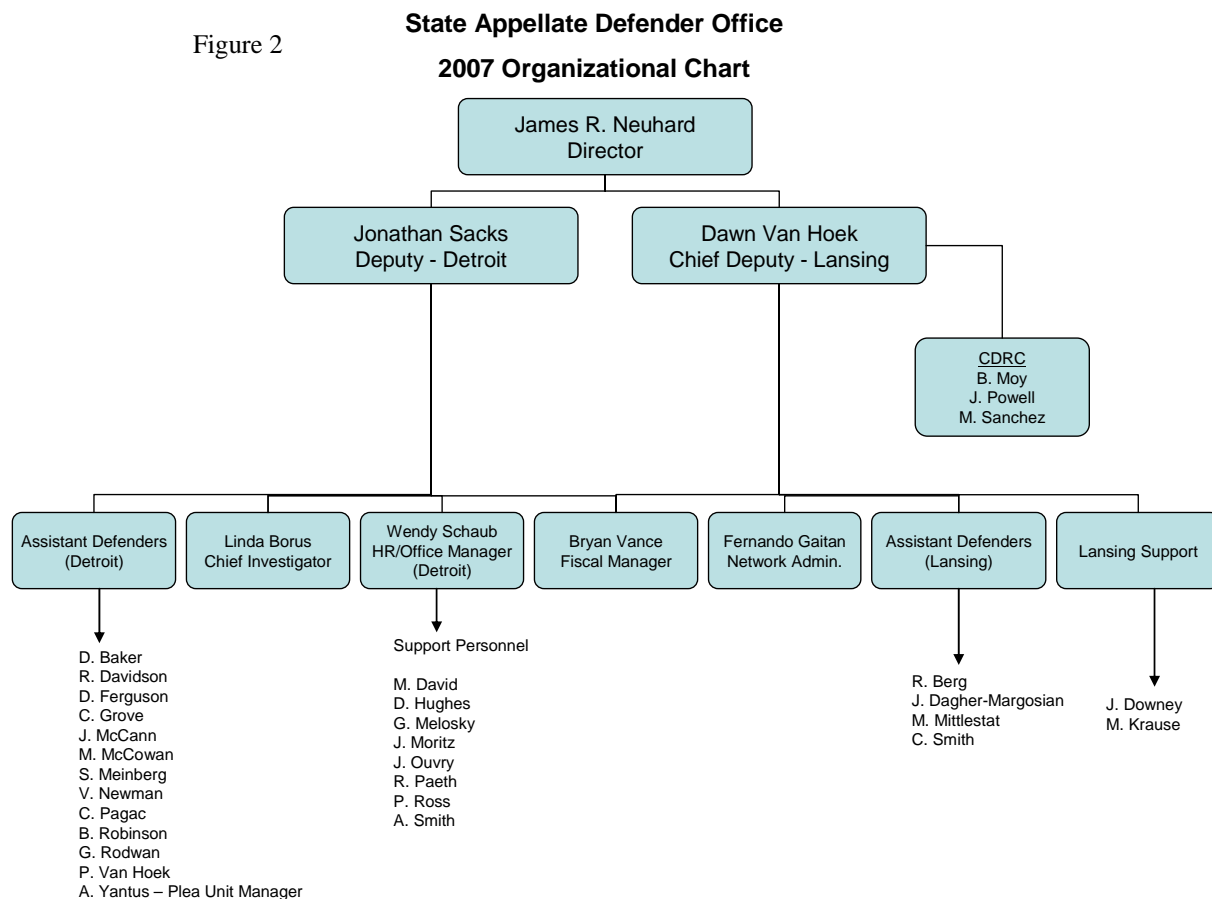


¹ Capacity is the cumulative total of new cases all SADO attorneys can accept per month under established differential case weighting standards.

SADO STAFFING AND DIRECT CLIENT SERVICES

At the end of 2007, SADO’s staffing levels included 35 full-time employees and 2 part-time employees. One new attorney was hired in the Lansing office and a part-time legal assistant was hired in the Detroit office. By the end of 2007, the Director, Deputy Director, and 13 Assistant Defenders were housed in the Detroit (main) office; and the Chief Deputy Director and four Assistant Defenders were located in the Lansing office. Three Legal Assistants, three 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 2007.



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.

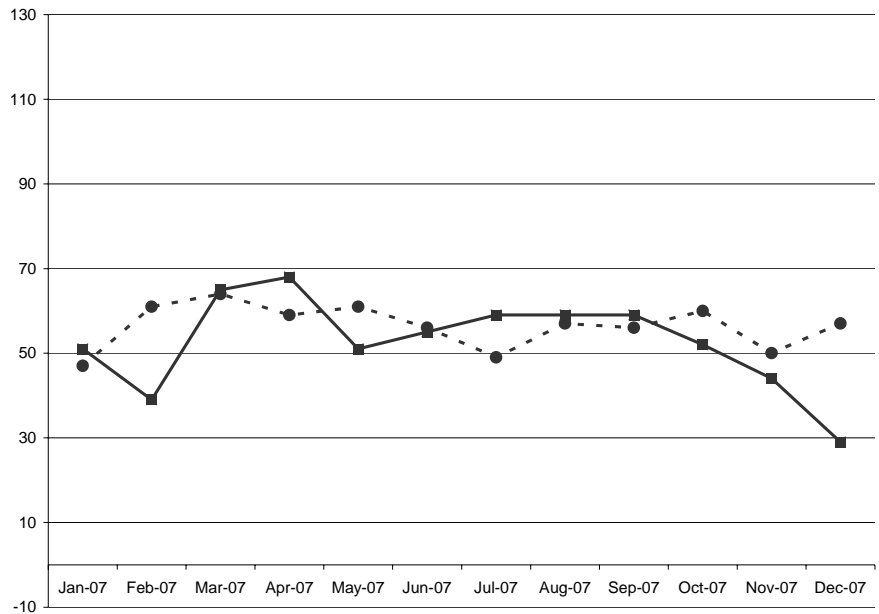
PRODUCTIVITY

In 2007, SADO Assistant and Deputy Defenders were assigned 727 cases and produced 2,305 filings, 669 of which were opening pleadings (Brief on Appeal or Motion for New Trial or Resentencing with a supporting brief). (See Table I 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.

**Opening Pleadings² Filed
vs.
No. of Assignments to Attorneys³ for 2007**

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.



	Jan-07	Feb-07	Mar-07	Apr-07	May-07	Jun-07	Jul-07	Aug-07	Sep-07	Oct-07	Nov-07	Dec-07
—■— Assignments to Atty	51	39	65	68	51	55	59	59	59	52	44	29
-●- Opening Pleadings	47	61	64	59	61	56	49	57	56	60	50	57

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.

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.

Sentencing Errors Corrected in One-Third of SADO Appeals

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 2007, the average relief rate for all plea unit files was 34%, largely in the trial court, and the overall average for files where the appeal was taken was 51% for the four staff attorneys in the Unit who ably handled 77% of the total plea-based appeal assignments to attorneys.

Initiating the appeal in the trial court has numerous advantages: memories are fresh, trial judges are well-acquainted with the file, prosecutors are more likely to negotiate, and a costly proceeding in the higher appellate courts may be avoided. Of the cases that are not dismissed and proceed first in the trial court, relief was granted an average of 85% of the time.

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.

Correcting Sentencing Errors Saves Money for the State of Michigan

For the five calendar years of 2003-2007, the Plea Unit accomplished a cumulative reduction in minimum prison terms of 122 1/2 years, and a cumulative reduction of maximum prison terms of 309 years. The average reduction per plea unit attorney per year was 7 1/2 years on the minimum term, and 19 years on the maximum term. The average number of assignments, per unit attorney, per year from 2003-2007, was 80 cases.

Below are the numbers and averages for sentence reductions for each year. Please note that the number of plea unit attorneys in the Plea Unit has varied each year, and therefore the number of overall reduced sentences will vary from year to year. There were two unit attorneys from 2004-2005, three unit attorneys in 2007, and four unit attorneys in 2003 and 2006.

	Cumulative Min Term Reduction	Average Per Atty Min Term Reduction	Cumulative Max Term Reduction	Average Per Atty Max Term Reduction
2003	45 ½ Years	11 Years	73 Years	18 Years
2004	18 ½ Years	9 Years	15 Years	7 ½ Years
2005	10 ½ Years	5 Years	21 ½ Years	10 ½ Years
2006	19 ½ Years	4 ½ Years	85 ½ Years	21 Years
2007	28 ½ Years	9 ½ Years	114 Years	38 Years

Assuming an average annual cost of incarceration of \$30,000 (clients reside in a variety of correctional settings), sentencing error correction by Special Unit attorneys during 2007 saved the State of Michigan approximately \$855,000 (28.5 years reduced from sentence minimum x \$30,000).

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

2007 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 2007 was to handle as close to 25% of the total appellate assignments as resources would permit. However, as historically has been the case, in 2007 SADO was under staffed and under funded and therefore handled only 14.0% of the appeals. 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 2007 Annual Report

Primary Goals for 2007: 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 2007⁶ marked the thirty-first 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 2007 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 2007, 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, 2006 to September 30, 2007.

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. In 2007, resources from external web sites with significant value to criminal defense, such Public Acts and Court Rules, are now also searchable within the SADO Brief Bank.
- 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 1740 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 700 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.
- "Bridge" funding for the printing of the Defender Books was awarded by the Michigan State Bar Foundation, as MCOLES grant funding reduced the award for printing. The reduction was an interim step to elimination of the print budget, a policy decision by MCOLES applied to all grants as part of its encouragement of online resources. Because so many users of the Defender Books still want access to hard copy, the CDRC began to examine other options, including a printing partnership with major legal publishers.

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 (ten issues published) delivered an average twenty-five pages of essential information to approximately 1,100 subscribers electing to receive hard copy. A growing number of subscribers (700) 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 2007. 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, 10.57% of the trainees said daily, 52.86% said weekly, 30.29% said monthly and 6.29% said less than monthly. These results reflect heavy use, as in prior years. Approximately 24% said they use the books to browse a topic to learn the law, 29% used them to quickly identify a case, rule or statute, and 28% 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, 58% said they were indispensable, and 42% 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, 862 contacts took place between CDRC research attorneys and the users of the service. A detailed report appears in the appendix on page 12.

III. Services Delivered by the Web

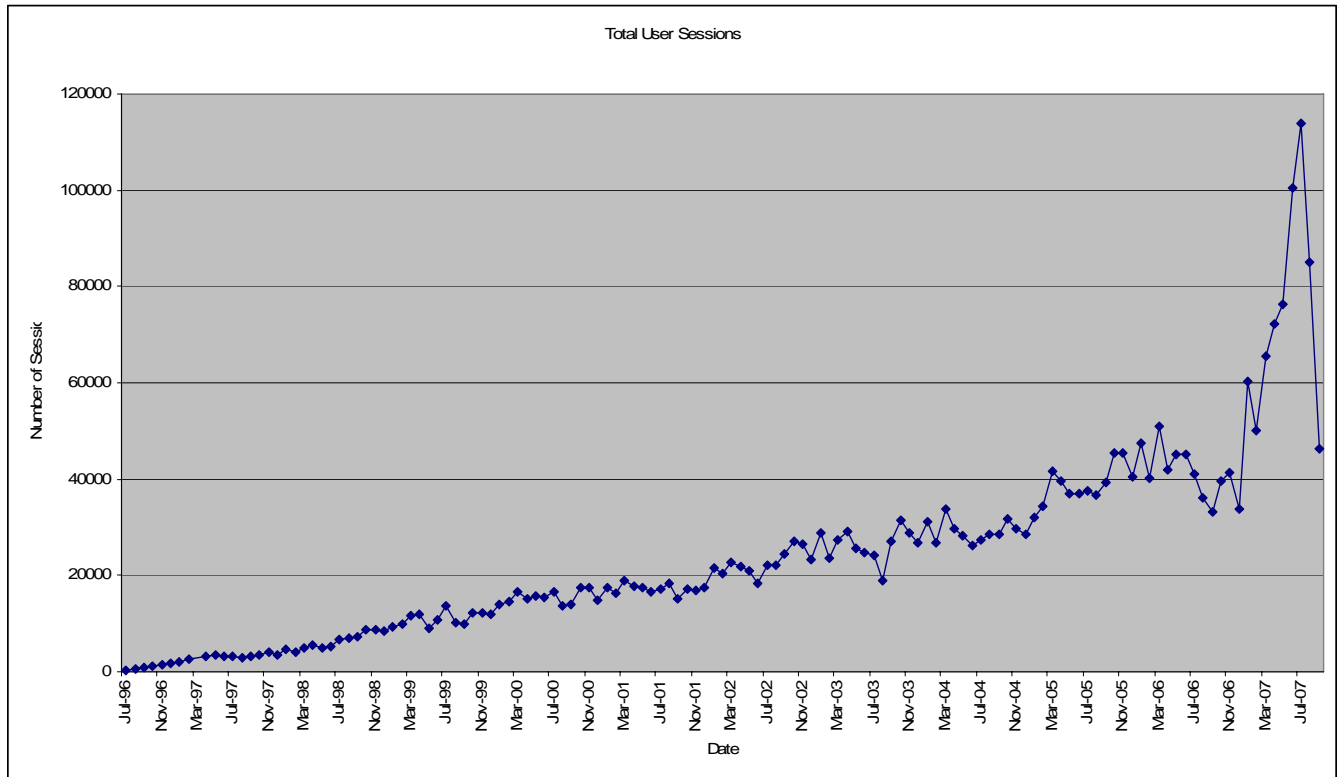
A. Databases

The year 2007 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 2007, 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.

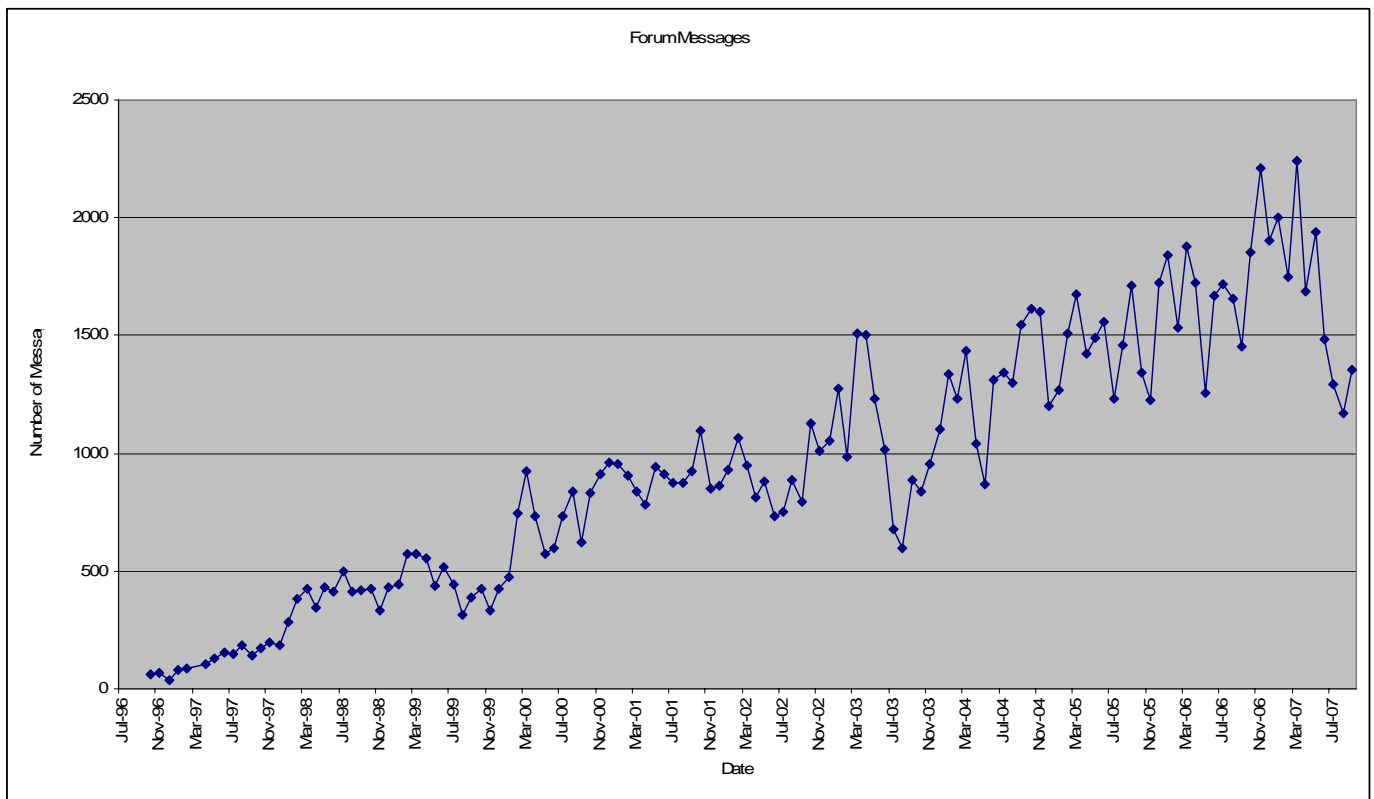
The value of the site to users was demonstrated by the number of web site hits and user sessions, all of which continued to climb. The most revealing statistic tracked, user sessions, averaged about 65,412 per month during the report period (an increase from last year's average of about 42,742).



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 1740 messages per month, with many months in the 1800-2000 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.



**Forum Messages by Day of Week
October, 2006 – September, 2007**

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
October, 2006	47	364	468	320	338	253	62
November, 2006	176	394	431	481	396	229	106
December, 2006	89	263	311	370	427	346	98
January, 2007	108	295	338	450	347	287	181
February, 2007	115	289	298	322	325	307	90
March, 2007	131	331	410	400	481	381	108
April, 2007	121	369	297	284	301	243	70
May, 2007	51	183	377	413	622	234	58
June, 2007	63	266	227	292	294	267	78
July, 2007	65	261	293	188	253	170	63
August, 2007	24	138	194	318	279	192	27
September, 2007	59	215	252	257	304	212	53
Totals	1049	3368	3896	4095	4367	3121	994
Total Messages Sent	29,862						

(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 700 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 700 subscribers to web services also received electronic copies 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 "Legal Research and Document Automation" and "Power Up Your Trial Presentation." A total of eighteen events took place, varying in length from three hours long for Legal Research and Document Automation to eight hours for Power Up Your Trial Presentation, reaching a total of 209 trainees in approximately a dozen different locations throughout Michigan. The average size of the group trained was approximately eleven, 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, 2007 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 2007, 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 57% 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, 12% said every time, 19% said most of the time, 47% said sometimes, 18% said rarely, and 4% 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: 17% said more than 10 hours monthly, 37% said between 5 and 10 hours monthly, 43% said under 5 hours monthly, and 3% said no time was saved. Asked if they would continue to use the SADO site for research and writing purposes, virtually all (100%) gave an affirmative answer. Asked to rate SADO's trainer, John Powell, 97% responded that he was either "excellent" or "very good."

For the third 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 2007 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.

ANNUAL REPORT 2007
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

Staffing/Funding

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.

Further reduction in appropriations imposed in fiscal 2006-2007 (October 1, 2006- September 30, 2007) would have required the implementation of twelve agency-wide “furlough” (unpaid) days or the layoff of an additional employee. This possibility was avoided only because an agency employee experienced the need to take an extended period of long-term medical leave followed by family medical leave in 2007. This circumstance created sufficient personnel savings to allow the agency to remain open and functional throughout fiscal and calendar 2006 and nearly all of calendar 2007.

In fiscal 2006-2007, the previous year’s reduction in appropriations was continued and further reductions were imposed. The agency, with the concurrence of the Appellate Defender Commission, implemented a plan to take between 12 and 18 “furlough” days during the 2007-2008 fiscal year. The first of these furlough days was taken just prior to the end of 2007.

Administrative Design

The administrative design has four primary components. First, MAACS maintains the statewide roster of attorneys eligible and willing to receive assignments. Second, MAACS oversees the assignment process, ensuring that cases are appropriately matched to qualified lawyers and that they are correctly distributed between roster attorneys and SADO. Third, MAACS attempts to improve the quality of representation by providing roster attorneys with training and other forms of assistance, and by resolving complaints about noncompliance with the Minimum Standards. Finally, because of its central position in a network that includes the trial and appellate courts, roster attorneys, SADO, and defendants, MAACS is able to perform a number of other functions important to the ultimate goal of providing high quality indigent appellate defense.

I. Maintaining the Roster

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. 2007 Roster Maintenance

1. 2007 Roster Attorney Status

As of December 31, 2007, the MAACS roster consisted of 145 members: 74 at Level 1, 38 at Level 2 and 33 at Level 3. Of these last 33, 11 attorneys elected the option to provide representation solely in Level 3 trial-based convictions. Requests for new roster membership continued regularly throughout the year. Eight lawyers resigned from the roster. Due to budget reductions, however, MAACS was unable to conduct the orientation training for new members required by the MAACS Regulations. No new roster members were added in 2007.

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*.

As reflected in the 2006 Annual Report, 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.

In 2007, a continuing impact of the *Halbert* decision was observed, in two general ways. First, the post-*Halbert* overall increase in the total number of defendant's who requested and were granted the appointment of counsel on appeal occurred. This reflected the implementation of the *Halbert* holding in those circuits which had employed the procedure held improper in that case. Second, there was also a reduction in total plea appeals from the previous year. This was possibly the result of two additional factors: first, a great many defendants eligible for appointment of counsel on appeal pursuant to *Halbert* made their requests within the first eighteen months after that ruling, and: second, the Michigan Supreme Court's post-*Halbert* amendment of MCR 6.425(G)(1)(c) allowed the circuits to deny counsel on appeal on the basis that the request is not filed within 42 days of the sentencing.

3. "Comparable Experience" Additions to the Roster

No lawyers requested admittance to the roster at Levels 2 or 3 pursuant to Regulation Section 4(2)(d) in 2007.

4. Roster Lawyer Re-Classification

During 2007 one lawyer was reclassified, after review by the administrative staff, from Level 2 to 3. Two other requests from roster lawyers to move to a higher level were denied by the Administrator. Finally, one former roster member's request to rejoin the roster at a level higher than level 1 was also denied by the Administrator.

5. Other Roster Matters

At the end of 2007 nine lawyers, while remaining on the roster, remained suspended from receiving future assignments, pursuant to the Regulations, by action of the Administrator. In two cases, this resulted from the lawyers inability to provide representation for health reasons. In another, this was at the request of the lawyer. In the other six instances, the Administrator determined that the lawyers involved had not responded either adequately or at all to inquiries from MAACS concerning alleged 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 2007, appellate counsel was assigned in 4247 cases. This figure represented a decrease from the 4438 cases assigned in 2006, or (4.3%). This figure still represented an 8.8% increase from the 3875 assignments in 2005, and a 19.4% increase from the 3420 assignments in 2004: the year prior to the *Halbert* decision. In 2007 SADO was assigned in 603 cases, or 14.2% of the total.

The distribution of assignments by case type and level appears in the chart included with 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 resentencings.

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 2005-2007, 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 2007, and with grant funding from MCOLES, MAACS presented one Fall training program, on three dates and locations: October 11th in Grand Rapids; October 18th in Lansing; and, October 25th in Novi. This training was entitled “Effective Brief Writing, Oral Advocacy and Changes in Michigan Criminal Sexual Conduct Sentencing Statutes.” It involved presentations by Mark Cooney, Professor, Thomas M. Cooley Law School, and MAACS roster member Richard Ginsburg on effective brief writing, State Appellate Defender Peter Jon Van Hoek on effective oral advocacy in the appellate courts of Michigan and highly regarded Ann Arbor criminal defense lawyer, John Shea, on the changes in statute and court decisions concerning criminal sexual sentencing and the sexual offender reporting statutes. Finally, MAACS Administrator Thomas Harp provided a lecture on developments in criminal appellate practice since the last lecture series in 2006. 110 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.

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. The MAACS Standards and Commentary and the MAACS Regulations was distributed in hard-copy form in 2006. Grant funding was not requested for this purpose in 2007.

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 2007, three roster lawyers requested reclassification to a higher Level. Based on the findings of the review process, one lawyer was approved for reclassification as a Level 3 lawyer and one lawyer’s request for reclassification from Level 1 to Level 2 was denied. Finally, one former roster lawyer requested to rejoin the roster, and at a level higher than Level 1. That request was, after review, denied.

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 2007, no lawyers requested roster membership pursuant to this Regulation.

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, but also from the Courts, regarding the conduct of roster members. In 2007 the Administrator received 456 pieces of this type of correspondence and numerous others by email and telephone. Virtually all of these demand a formal written response of some kind.

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 administrative staff to contact the lawyer involved in the representation, the defendant, or both. This contact may range from a letter warning counsel to write the client promptly to the initiation of a formal complaint process. Where appropriate, problems may also be resolved with formal findings, but without a formal complaint process. These situations generally involve complaints implicating a violation of the Minimum Standards involving a roster attorney who has already resigned or been removed from the roster.

A large percentage of complaints from defendants involve allegations that the roster lawyer has failed to contact 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. If it does not, a violation of the Minimum Standards is implicated, and a formal investigation is begun. Even if resolved by immediate action by the lawyer, supervision of the process remains time-consuming work, however, as, in 2007, 70 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 multiple Standards has or have been violated during the representation. The lawyer’s client (the complainant, normally) is given the opportunity to respond to any answer the attorney provides. MAACS conducts any independent investigation that may be necessary regarding the allegation(s), or regarding 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.

In 2007, MAACS resolved 39 formal complaints involving 26 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 or pleadings, 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 a request to the circuit court to appoint substitute counsel or to formal removal from the MAACS roster of lawyers. In four instances, the violations of the Minimum Standards in these thirty-seven cases resulted in MAACS successfully seeking the appointment of substitute counsel by the circuit courts involved. Additionally, five of the lawyers involved in these investigations were either no longer members of the roster (three) or persuaded by the Administrator to resign from the roster. Two additional lawyers were informed, pursuant to the Regulations, that the Administrator contemplated their removal. The decisions to remove these lawyers occurred after the end of 2007.

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 results in 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
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
2007	17	631	727	42.8	2,305	135.6	3.65	669	1,411	83	2.24

* 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 II
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%)
2007	695	98 (14%)	12 (2%)

* 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.

TABLE III
STATE APPELLATE DEFENDER OFFICE ANNUAL REPORT
FOR THE YEAR OF 2007

Total New Appointments to SADO 1/1/07 to 12/31/07	631
Total Cases Assigned to Staff Attorneys 1/1/07 to 12/31/07	727
Total Filings by SADO 1/1/07 to 12/31/07	2,305
Total Cases Closed (Done*) 1/1/07 to 12/31/07	635
Total Cases Open as of 12/31/07	1,429

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

TABLE IV
STATE APPELLATE DEFENDER OFFICE ANNUAL REPORT
FOR THE YEAR OF 2007

SADO FILINGS 1/1/07 to 12/31/07

Trial Court	619
Court of Appeals	1,441
Supreme Court	216
Federal Courts	29
Total FILINGS	2,305

MAJOR FILINGS 1/1/07 to 12/31/07

Trial Court	552
Court of Appeals	647
Supreme Court	203
Federal Courts	9
Total MAJOR FILINGS	1,411 = 61% of all filings

SADO APPOINTMENTS BY CASE TYPE 1/1/07 to 12/31/07

Pleas	275
Probation Violation Pleas	40
Jury Trials	237
Bench Trials	44
Probation Violation Trials	8
Prosecutor Appeals/Interlocutory	10
Resentencing	8
SC Application – OTHER	4
Specials (+ PPO cases)	5
Total ASSIGNMENTS	631*

* 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 V
SADO'S PERCENT OF COMPLEX (LEVEL III JURY TRIAL APPEALS)
APPELLATE ASSIGNMENTS 1993-2007
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%
2007	4,212	590 14.0%	626 14.9%	154 26.1%

* 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 VI
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
2007	319 (51%)	251 (40%)	44 (7%)	17 (2%)	631

* 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 VII
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
2007	631	95

- 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 VIII
SADO OVERALL RELIEF RATES* 1993-2007**

	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
2007	558	392 (56%)	113 (16%)	53 (8%)	24

- 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%.

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

WCCDA (FMHJ) Grant
Attorney-to-Attorney Support Service
October, 2006 through September, 2007

1. Number of contacts with service

Total	FMHJ
862	862

2. Number of attorneys using service:

Total	FMHJ
176	176

3. Method of contact:

	FMHJ
E-mail	6
Telephone	51
In-Person	804
Mail	0
Other	1

4. Nature of presenting issues:

Total	FMHJ
Trial	566
Appellate	69
Plea	28
Sentencing	48
Web	7
Software	0
Forum	2
Research	15
Other	127

5. Nature of solutions provided: *

Identify/discuss legal issues:	553
Discuss strategy	233
Discuss procedure	175
Provide pleadings (from our databases, including packets)	40
Provide legal research (including citations & experts)	316
Train on web research	59
Troubleshoot technical problem	41
Provide forms (other sources, SCAO, CJI)	33
Referral to another agency or attorney	9
Other	102

* some contacts involve solutions in two categories.

**MICHIGAN APPELLATE ASSIGNED COUNSEL
SYSTEM APPENDICES**

**MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM
PLEA APPEALS FROM
JANUARY 1, 2007 TO DECEMBER 31, 2007**

CIRCUIT	PLEA APPEALS	CIRCUIT	PLEA APPEALS	CIRCUIT	PLEA APPEALS
1st Hillsdale	12	17th Kent	186	33rd Charlevoix	8
2nd Berrien	119	18th Bay	51	34th Arenac/Ogemaw/ Roscommon	10
3rd Wayne	620	19th Benzie/Manistee	7	35th Shiawassee	17
4th Jackson	102	20th Ottawa	17	36th Van Buren	17
5th Barry	17	21st Isabella	30	37th Calhoun	76
6th Oakland	320	22nd Washtenaw	48	38th Monroe	26
7th Genesee	148	23rd Iosco/Oscoda	26	39th Lenawee	27
8th Ionia/Montcalm	22	24th Sanilac	5	40th Lapeer	10
9th Kalamazoo	72	25th Marquette	12	41st Dickinson/Iron/ Menominee	6
10th Saginaw	75	26th Alcona/Alpena Montmorency/Presque Isle	7	42nd Midland	20
11th Alger/Luce Schoolcraft	3	27th Newaygo/Oceana	14	43rd Cass	12
12th Baraba/Houghton/ Keweenaw	3	28th Missaukee/Wexford	22	44th Livingston	49
13th Antrim/Grand Traverse/Leelanau	43	29th Clinton/Gratiot	22	45th St. Joseph	21
14th Muskegon	103	30th Ingham	61	46th Crawford/Kalkaska Otsego	26
		31st St. Clair	32		

15th Branch	3	32nd Gogebic/Ontonagon	4	47th Delta	5
16th Macomb	201				

**MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM
PLEA APPEALS FROM
JANUARY 1, 2007 TO DECEMBER 31, 2007**

CIRCUIT	PLEA APPEALS
48th Allegan	24
49th Mecosta/Osceola	17
50th Chippewa/Mackinac	17
51st Lake/Mason	3
52nd Huron	6
53rd Cheboygan	12
54th Tuscola	17
55th Clare/Gladwin	18
56th Eaton	27
57th Emmet	4
TOTAL	2882

**2007
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	12	0	12	0	0	0	0	13
2nd Berrien	20	0	2	22	3	119	3	125	0	0	0	0	147
3rd Wayne	407	1	18	426	31	619	102	752	0	0	20	20	1198
4th Jackson	19	1	0	20	1	101	6	108	0	0	0	0	128
5th Barry	1	0	0	1	0	17	1	18	0	0	0	0	19
6th Oakland	123	0	2	125	10	320	7	337	0	0	0	0	462
7th Genesee	15	1	0	16	0	147	11	158	0	0	0	0	174
8th Ionia/Montcalm	9	0	0	9	0	22	1	23	0	0	0	0	32
9th Kalamazoo	30	0	1	31	0	72	0	72	0	0	0	0	103
10th Saginaw	28	0	2	30	1	75	8	84	0	0	0	0	114
11th Alger/Luce Schoolcraft	3	0	0	3	0	3	0	3	0	0	0	0	6
12th Baraga/Houghton/Keweenaw	0	0	0	0	0	3	0	3	0	0	0	0	3

13th Antrim/Grand Traverse/Leelanau	6	0	0	6	0	43	1	44	0	0	0	0	50
14th Muskegon	12	0	4	16	2	103	4	109	0	0	0	0	125
15th Branch	3	0	0	3	0	3	1	4	0	0	0	0	7
16th Macomb	42	0	3	45	5	201	13	219	0	0	0	0	264
17th Kent	56	0	2	58	5	185	3	193	0	0	1	1	252
18th Bay	11	0	0	11	0	51	0	51	0	0	0	0	62
19th Benzie/Manistee	0	0	0	0	0	7	0	7	0	0	0	0	7
20th Ottawa	10	0	0	10	2	17	0	19	0	0	0	0	29
21st Isabella	3	0	1	4	0	30	5	35	0	0	0	0	39
22nd Washtenaw	32	0	0	32	3	48	1	52	0	0	1	1	85
23rd Iosco/Oscoda	5	1	0	6	0	25	0	25	0	0	0	0	31
24th Sanilac	2	0	0	2	0	5	0	5	0	0	0	0	7
25th Marquette	2	0	0	2	0	12	0	12	0	0	0	0	14
26th Alcona/Alpena/ Montmorency/ Presque Isle	1	0	0	1	0	7	0	7	0	0	0	0	8
27th Newaygo/Oceana	0	0	0	0	2	14	2	18	0	0	0	0	18
28th M issaukee/Wexford	3	0	0	3	0	22	1	23	0	0	0	0	26
29th Clinton/Gratiot	6	0	0	6	0	22	0	22	0	0	0	0	28

30th Ingham	18	0	0	18	1	61	4	66	0	0	0	0	84
31st St. Clair	20	0	0	20	0	32	2	34	0	0	0	0	54
32nd Gogebic/Ontonagon	1	0	0	1	1	4	0	5	0	0	0	0	6
33rd Charlevoix	2	0	0	2	0	8	0	8	0	0	0	0	10
34th Arenac/Ogemaw	5	0	0	5	0	10	0	10	0	0	0	0	15
35th Roscommon	3	0	0	3	0	17	0	17	0	0	0	0	20
36th Shiawassee	3	0	0	3	1	17	0	18	0	0	0	0	21
37th Van Buren	23	0	0	23	1	76	3	80	0	0	0	0	103
38th Calhoun	8	0	1	9	0	26	3	29	0	0	0	0	38
39th Monroe	7	0	0	7	8	27	2	37	0	0	0	0	44
40th Lenawee	6	0	3	9	0	10	0	10	0	0	0	0	19
41st Lapeer	4	0	1	5	0	6	0	6	0	0	0	0	11
42nd Dickinson/Iron	5	0	0	5	0	20	4	24	0	0	0	0	29
43rd Menominee	6	0	0	6	0	12	0	12	0	0	0	0	18
44th Cass	2	0	2	4	2	49	2	53	0	0	0	0	57
45th Livingston	6	0	1	7	0	22	1	23	0	0	0	0	30
46th St. Joseph	6	0	0	6	1	26	1	28	0	0	0	0	34
Crawford/Kalkaska Otsego													

47th Delta	1	0	0	1	0	5	0	5	0	0	0	0	6
48th Allegan	9	1	0	10	2	23	2	27	0	0	0	0	37
49th Mecosta/Osceola	5	0	0	5	0	17	4	21	0	0	0	0	26
50th Chippewa/Mackinaw	5	0	0	5	0	17	0	17	0	0	0	0	22
51st Lake/Mason	0	0	0	0	0	3	0	3	0	0	1	1	4
52nd Huron	1	0	0	1	0	6	0	6	0	0	0	0	7
53rd Cheboygan	3	0	0	3	0	13	1	14	0	0	0	0	17
54th Tuscola	3	0	0	3	0	17	2	19	0	0	0	0	22
55th Clare/Gladwin	1	0	0	1	0	18	0	18	0	0	0	0	19
56th Eaton	5	0	0	5	0	27	0	27	0	0	0	0	32
57th Emmet	7	0	0	7	0	4	0	4	0	0	0	0	11
ALL CIRCUITS TOTALS	1015	5	43	1063	82	2878	201	3161	0	0	23	23	4247

**2007 MAACS STATISTICS
ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	MISC.	MOTION/ RELIEF	PROSEC. APPEALS	PLEA/PV/ RESENTENCING			WT/EVIDENTIARY HEARING/INT/PPO			JURY			Grand Total	
				Level		Total	Level		Total	Level		Total		
				1	2		1	2		1	2			3
1st Hillsdale				9	3	12	0	0	0	0	1	0	1	13
2nd Berrien				61	63	124	0	0	0	4	4	15	23	147
3rd Wayne	8	64	20	260	404	664	67	81	148	49	48	197	294	1198
4th Jackson				67	41	108	0	0	0	1	5	14	20	128
5th Barry				11	7	18	0	0	0	0	0	1	1	19
6th Oakland		1		93	235	328	3	8	11	9	27	86	122	462
7th Genesee		3		67	89	156	0	0	0	1	2	12	15	174
8th Ionia/Montcalm				12	11	23	0	0	0	3	2	4	9	32
9th Kalamazoo				28	45	73	0	3	3	7	1	19	27	103
10th Saginaw	1	1		26	57	83	1	0	1	1	7	20	28	114
11th Alger/Luce				2	1	3	0	0	0	1	2	0	3	6
Schoolcraft														
12th Baraga/Houghton/ Keweenaw				2	1	3	0	0	0	0	0	0	0	3

13th Antrim/Grand Traverse/Leelanau			33	10	43	1	1	2	1	1	3	5	50	
14th Muskegon	1		40	70	110	1	1	2	1	3	8	12	125	
15th Branch	1		0	3	3	0	0	0	1	0	2	3	7	
16th Macomb	1		131	83	214	0	3	3	4	8	34	46	264	
17th Kent		1	1	80	110	190	1	0	1	4	8	47	59	252
18th Bay			25	26	51	0	0	0	0	3	8	11	62	
19th Benzie/Manistee			6	1	7	0	0	0	0	0	0	0	7	
20th Ottawa			5	12	17	0	1	1	0	2	9	11	29	
21st Isabella			23	13	36	0	0	0	3	0	0	3	39	
22nd Washtenaw			1	23	26	49	1	2	3	6	4	22	32	85
23rd Iosco/Oscoda			12	14	26	0	0	0	2	2	1	5	31	
24th Sanilac			3	2	5	0	0	0	0	0	2	2	7	
25th Marquette			9	3	12	0	0	0	1	0	1	2	14	
26th Alcona/Alpena/ Montmorency/ Presque Isle			3	4	7	0	0	0	1	0	0	1	8	
27th Newaygo/Oceana	1		8	7	15	0	0	0	0	0	2	2	18	
28th Missaukee/Wexford		1	12	10	22	0	0	0	1	0	2	3	26	
29th Clinton/Gratiot			14	8	22	0	0	0	2	1	3	6	28	

30th Ingham	1	27	37	64	0	0	0	3	4	12	19	84
31st St. Clair		11	23	34	0	0	0	2	4	14	20	54
32nd Gogebic/Ontonagon		3	1	4	0	0	0	1	1	0	2	6
33rd Charlevoix		5	3	8	0	0	0	1	0	1	2	10
34th Arenac/Ogemaw		5	5	10	0	0	0	0	4	1	5	15
Roscommon												
35th Shiawassee		6	11	17	0	0	0	2	0	1	3	20
36th Van Buren		7	10	17	0	0	0	1	1	2	4	21
37th Calhoun		46	33	79	0	0	0	0	4	20	24	103
38th Monroe	1	14	15	29	0	1	1	1	0	6	7	38
39th Lenawee		17	12	29	1	0	1	0	2	12	14	44
40th Lapeer		6	7	13	0	0	0	2	0	4	6	19
41st Dickinson/Iron		3	4	7	0	1	1	0	0	3	3	11
Menominee												
42nd Midland	3	11	10	21	0	0	0	1	1	3	5	29
43rd Cass		5	7	12	0	0	0	1	0	5	6	18
44th Livington		16	37	53	0	1	1	0	1	2	3	57
45th St. Joseph	1	5	16	21	1	0	1	1	2	4	7	30
46th Crawford/Kalkaska		17	10	27	0	0	0	1	2	4	7	34
Otsego												

47th				3	2	5	0	0	0	0	0	1	1	6
Delta														
48th				12	14	26	1	0	1	1	4	5	10	37
Allegan														
49th	1			9	11	20	0	0	0	1	1	3	5	26
Mecosta/Osceola														
50th				7	10	17	1	0	1	0	2	2	4	22
Chippewa/Mackinaw														
51st		1		2	1	3	0	0	0	0	0	0	0	4
Lake/Mason														
52nd				3	3	6	0	0	0	0	0	1	1	7
Huron														
53rd				12	2	14	0	0	0	0	1	2	3	17
Cheboygan														
54th				5	14	19	0	0	0	0	0	3	3	22
Tuscola														
55th				11	7	18	0	0	0	1	0	0	1	19
Clare/Gladwin														
56th				13	14	27	0	0	0	2	1	2	5	32
Eaton														
57th				3	1	4	0	0	0	3	1	3	7	11
Emmet														
ALL CIRCUITS	14	77	23	1349	1679	3028	79	103	182	128	167	628	923	4247
TOTALS														
Level 1				1556										
Level 2				1949										
Level 3				628										
Total				4133										

**RESENTENCINGS
1/1/07 TO 12/31/07**

<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>
2	4	1					1			2	
3	30	2	5		2	3	3	4		6	5
4	5	1					3			1	
6	6				1		1	1		3	
7	8	2					5			1	
8	1						1				
9	1									1	
10	7	2					1			4	
14	4	2					1			1	
16	9			2	2		2			3	
17	1						1				
22	1	1									
27	1						1				
30	3	1		1			1				
31	2						2				
37	1						1				
38	2				1		1				
39	2	1					1				
40	3				2					1	
42	1						1				
44	3						1			2	
46	1							1			

48	2	1	1
49	3		3
53	2	2	
54	1	1	
TOTAL	104	17	5 3 8 3 32 6 0 25 5

**PLEA CASES
1/1/07 TO 12/31/07**

	TOTAL	LEVEL I	LEVEL II
PLEAS	49	17	32
PVP	11	5	6

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**APPELLATE ASSIGNMENTS
CHANGES BY CIRCUIT 2005-2007**

	2005 TOTAL	2006 TOTAL	05-06 % CHANGE #/%	2007 TOTAL	06-07 % CHANGE #/%	05-07 % CHANGE #/%
1st Hillsdale	27	27	0 0.0%	13	-14 -51.9%	-14 -51.9%
2nd Berrien	104	152	48 46.2%	147	-5 -3.3%	43 41.3%
3rd Wayne	1067	1179	112 10.5%	1198	19 1.6%	131 12.3%
4th Jackson	126	123	-3 -2.4%	128	5 4.1%	2 1.6%
5th Barry	29	25	-4 -13.8%	19	-6 -24.0%	-10 -34.5%
6th Oakland	401	485	84 20.9%	462	-23 -4.7%	61 15.2%
7th Genesee	221	211	-10 -4.5%	174	-37 -17.5%	-47 -21.3%
8th Ionia/Montcalm	20	31	11 55.0%	32	1 3.2%	12 60.0%
9th Kalamazoo	64	117	53 82.8%	103	-14 -12.0%	39 60.9%
10th Saginaw	158	141	-17 -10.8%	114	-27 -19.1%	-44 -27.8%
11th Alger/Luce Schoolcraft	8	9	1 12.5%	6	-3 -33.3%	-2 -25.0%
12th Baraga/Houghton/ Keweenaw	2	8	6 300.0%	3	-5 -62.5%	1 50.0%
13th Antrim/Grand	70	53	-17 -24.3%	50	-3 -5.7%	-20 -28.6%
14th Traverse/Leelanau	93	129	36	125	-4	32

Muskegon			38.7%		-3.1%	34.4%
15th	10	14	4	7	-7	-3
Branch			40.0%		-50.0%	-30.0%
16th	242	263	21	264	1	22
Macomb			8.7%		0.4%	9.1%
17th	190	235	45	252	17	62
Kent			23.7%		7.2%	32.6%
18th	60	84	24	62	-22	2
Bay			40.0%		-26.2%	3.3%
19th	14	9	-5	7	-2	-7
Benzie/Manistee			-35.7%		-22.2%	-50.0%
20th	15	38	23	29	-9	14
Ottawa			153.3%		-23.7%	93.3%
21st	28	34	6	39	5	11
Isabella			21.4%		14.7%	39.3%
22nd	70	72	2	85	13	15
Washtenaw			2.9%		18.1%	21.4%
23rd	16	22	6	31	9	15
Iosco/Oscoda			37.5%		40.9%	93.8%
24th	9	4	-5	7	3	-2
Sanilac			-55.6%		75.0%	-22.2%
25th	10	7	-3	14	7	4
Marquette			-30.0%		100.0%	40.0%
26th	5	13	8	8	-5	3
Alcona/Alpena/ Montmorency/ Presque Isle			160.0%		-38.5%	60.0%
27th	12	19	7	18	-1	6
Newaygo/Oceana			58.3%		-5.3%	50.0%
28th	31	16	-15	26	10	-5
Missaukee/Wexford			-48.4%		62.5%	-16.1%
29th	21	37	16	28	-9	7
Clinton/Gratiot			76.2%		-24.3%	33.3%
30th	84	104	20	84	-20	0
Ingham			23.8%		-19.2%	0.0%
31st	68	56	-12	54	-2	-14
St. Clair			-17.6%		-3.6%	-20.6%

32nd	6	4	-2	6	2	0
Gogebic/Ontonagon			-33.3%		50.0%	0.0%
33rd	9	11	2	10	-1	1
Charlevoix			22.2%		-9.1%	11.1%
34th	26	19	-7	15	-4	-11
Arenac/Ogemaw			-26.9%		-21.1%	-42.3%
Roscommon						
35th	9	20	11	20	0	11
Shiawassee			122.2%		0.0%	122.2%
36th	12	20	8	21	1	9
Van Buren			66.7%		5.0%	75.0%
37th	93	99	6	103	4	10
Calhoun			6.5%		4.0%	10.8%
38th	63	74	11	38	-36	-25
Monroe			17.5%		-48.6%	-39.7%
39th	45	55	10	44	-11	-1
Lenawee			22.2%		-20.0%	-2.2%
40th	21	11	-10	19	8	-2
Lapeer			-47.6%		72.7%	-9.5%
41st	6	9	3	11	2	5
Dickinson/Iron			50.0%		22.2%	83.3%
Menominee						
42nd	9	26	17	29	3	20
Midland			188.9%		11.5%	222.2%
43rd	19	27	8	18	-9	-1
Cass			42.1%		-33.3%	-5.3%
44th	20	29	9	57	28	37
Livingston			45.0%		96.6%	185.0%
45th	24	29	5	30	1	6
St. Joseph			20.8%		3.4%	25.0%
46th	31	34	3	34	0	3
Crawford/Kalkaska			9.7%		0.0%	9.7%
Otsego						
47th	5	13	8	6	-7	1
Delta			160.0%		-53.8%	20.0%
48th	45	61	16	37	-24	-8
Allegan			35.6%		-39.3%	-17.8%

49th	21	21	0	26	5	5
Mecosta/Osceola			0.0%		23.8%	23.8%
50th	17	16	-1	22	6	5
Chippewa/Mackinaw			-5.9%		37.5%	29.4%
51st	9	18	9	4	-14	-5
Lake/Mason			100.0%		-77.8%	-55.6%
52nd	2	4	2	7	3	5
Huron			100.00%		75.0%	250.0%
53rd	14	21	7	17	-4	3
Cheboygan			50.0%		-19.0%	21.4%
54th	15	7	-8	22	15	7
Tuscola			-53.3%		214.3%	46.7%
55th	7	19	12	19	0	12
Clare/Gladwin			171.4%		0.0%	171.4%
56th	35	55	20	32	-23	-3
Eaton			57.1%		-41.8%	-8.6%
57th	17	19	2	11	-8	-6
Emmet			11.8%		-42.1%	-35.3%
All Circuit Totals	3,855	4,438	583	4,247	-191	392
			15.1%		-4.3%	10.2%

**2007 MAACS STATISTICS
SADO ASSIGNED APPEALS BY CASE TYPE AND LEVEL**

Circuit	MISC.	MOTION/ RELIEF	PROSEC. APPEALS	PLEA/PV/ RESENTENCING			WT/EVIDENTIARY HEARING/INT/PPO			JURY			Grand Total	
				Level 1	2	Total	Level 1	2	Total	Level 1	2	3		Total
1st Hillsdale				1	0	1	0	0	0	0	0	0	0	1
2nd Berrien				5	9	14	0	0	0	1	1	3	5	19
3rd Wayne		18	7	25	39	64	15	19	34	13	12	46	71	194
4th Jackson				6	4	10	0	0	0	0	1	4	5	15
5th Barry				1	1	2	0	0	0	0	0	1	1	3
6th Oakland		1		9	22	31	1	1	2	2	6	20	28	62
7th Genesee				6	8	14	0	0	0	1	0	3	4	18
8th Ionia/Montcalm				2	1	3	0	0	0	0	0	2	2	5
9th Kalamazoo				3	5	8	0	1	1	2	0	5	7	16
10th Saginaw	1			2	6	8	1	0	1	0	1	5	6	16
11th Alger/Luce				0	0	0	0	0	0	1	0	0	1	1
Schoolcraft														
12th Baraga/Houghton/				0	0	0	0	0	0	0	0	0	0	0

Keweenaw													
13th			3	0	3	1	0	1	0	0	1	1	5
Antrim/Grand													
Traverse/Leelanau													
14th	1		4	7	11	1	1	2	1	0	2	3	17
Muskegon													
15th	1		0	0	0	0	0	0	0	0	2	2	3
Branch													
16th	1		14	8	22	0	1	1	1	2	7	10	34
Macomb													
17th			8	11	19	0	0	0	0	3	11	14	33
Kent													
18th			1	2	3	0	0	0	0	0	2	2	5
Bay													
19th			0	1	1	0	0	0	0	0	0	0	1
Benzie/Manistee													
20th			1	1	2	0	1	1	0	0	2	2	5
Ottawa													
21st			2	2	4	0	0	0	0	0	0	0	4
Isabella													
22nd			2	2	4	1	1	2	1	2	7	10	16
Washtenaw													
23rd			1	1	2	0	0	0	0	0	1	1	3
Iosco/Oscoda													
24th			0	2	2	0	0	0	0	0	1	1	3
Sanilac													
25th			0	0	0	0	0	0	0	0	0	0	0
Marquette													
26th			0	0	0	0	0	0	1	0	0	1	1
Alcona/Alpena/ Montmorency/ Presque Isle													
27th	1		1	1	2	0	0	0	0	0	1	1	4
Newaygo/Oceana													
28th		1	1	0	1	0	0	0	1	0	1	2	4
Missaukee/Wexford													
29th			1	1	2	0	0	0	0	0	0	0	2

Clinton/Gratiot												
30th												
Ingham												
31st												
St. Clair												
32nd												
Gogebic/Ontonagon												
33rd												
Charlevoix												
34th												
Arenac/Ogemaw												
Roscommon												
35th												
Shiawassee												
36th												
Van Buren												
37th												
Calhoun												
38th												
Monroe												
39th												
Lenawee												
40th												
Lapeer												
41st												
Dickinson/Iron												
Menominee												
42nd	1											
Midland												
43rd												
Cass												
44th												
Livington												
45th	1											
St. Joseph												
46th												
Crawford/Kalkaska												

Otsego														
47th				0	1	1	0	0	0	0	0	0	0	1
Delta														
48th				1	2	3	0	0	0	0	0	1	1	4
Allegan														
49th				1	1	2	0	0	0	0	1	0	1	3
Mecosta/Osceola														
50th				1	1	2	0	0	0	0	0	1	1	3
Chippewa/Mackinaw														
51st	1			0	0	0	0	0	0	0	0	0	0	1
Lake/Mason														
52nd				0	1	1	0	0	0	0	0	0	0	1
Huron														
53rd				1	0	1	0	0	0	0	1	0	1	2
Cheboygan														
54th				0	1	1	0	0	0	0	0	1	1	2
Tuscola														
55th				0	1	1	0	0	0	1	0	0	1	2
Clare/Gladwin														
56th				0	2	2	0	0	0	1	0	0	1	3
Eaton														
57th				0	0	0	0	0	0	1	0	1	2	2
Emmet														
ALL CIRCUITS	5	22	8	125	165	290	22	27	49	36	37	156	229	603
TOTALS														
Level 1				183										
Level 2				229										
Level 3				156										
Total				568										

**APPELLATE ASSIGNMENTS
JANUARY 1, 2007 TO DECEMBER 31, 2007**

	Total No. --- Percent of Grand Total	SADO No. --- Percent of SADO Total	SADO Percent of Total Case Type
Level I			
Plea/PV/Resentencing	1349 31.8%	125 20.7%	9.3%
Waiver Trial/INT/6.5/PPO Evidentiary Hearing	79 1.9%	22 3.6%	27.8%
Jury Trial	128 3.0%	36 6.0%	28.1%
Level I Total	1556 36.6%	183 30.3%	11.8%
Level II			
Plea/PV/Resentencing	1679 39.5%	165 27.4%	9.8%
Waiver Trial/INT/6.5/PPO Evidentiary Hearing	103 2.4%	27 4.5%	26.2%
Jury Trial	167 3.9%	37 6.1%	22.2%
Level II Total	1949 45.9%	229 38.0%	11.7%
Level III			
Jury Trial	628 14.8%	156 25.9%	24.8%
Level III Total	628 14.8%	156 25.9%	24.8%
Motions for Relief	77 1.8%	22 3.6%	28.6%
Prosecution Appeals of Dismissals	23 0.5%	8 1.3%	34.8%
Miscellaneous	14 0.3%	5 0.8%	35.7%
GRAND TOTAL	4247	603	14.2%