

## EXECUTIVE DIGEST

# APPELLATE DEFENDER COMMISSION

---

### INTRODUCTION

This report, issued in March 2002, contains the results of our performance audit\* of the Appellate Defender Commission.

---

### AUDIT PURPOSE

This performance audit was conducted as part of the constitutional responsibility of the Office of the Auditor General. Performance audits are conducted on a priority basis related to the potential for improving effectiveness\* and efficiency\*. Also, this performance audit was conducted in accordance with Section 319, Act 126, P.A. 1999, and Section 319, Act 264, P.A. 2000 (Judiciary appropriations acts).

---

### BACKGROUND

The Commission was created by Act 620, P.A. 1978, the Appellate Defender Act (Sections 780.711 - 780.719 of the *Michigan Compiled Laws*). The Commission is responsible for development of a system of indigent appellate defense services to be provided by the Appellate Defender and by locally appointed private counsel, development of minimum standards\* for all indigent criminal defense appellate services, compilation and maintenance of a Statewide roster of attorneys eligible for and willing to accept appointment by an appropriate court to serve as criminal defense appellate counsel for indigents, and provision of a continuing legal education training program for Commission staff and roster attorneys. The Commission established the State Appellate Defender

Office (SADO) and the Michigan Appellate Assigned Counsel System (MAACS) to carry out these responsibilities.

SADO expended approximately \$4.1 million in fiscal year 1999-2000 and had 45.5 full-time equivalent employees as of February 1, 2001. MAACS expended approximately \$750,000 in fiscal year 1999-2000 and had 9 full-time equivalent employees as of February 1, 2001.

---

AUDIT OBJECTIVES,  
CONCLUSIONS, AND  
NOTEWORTHY  
ACCOMPLISHMENTS

**Audit Objective:** To assess the effectiveness and efficiency of the Commission's system for providing indigent appeal services through SADO.

**Conclusion:** The Commission's system for providing indigent appeal services through SADO was generally effective and efficient.

**Noteworthy Accomplishments:** SADO developed and implemented a relational database that is used to generate all reports necessary to monitor and track every appeal SADO is assigned. The database is fully integrated into SADO's case production and brief preparation. It has eliminated the need for repetitive data entry and for multiple proofing by both secretaries and attorneys. SADO has received inquiries from several other states as well as from Wayne County expressing an interest in obtaining the database.

Over the years, automation has allowed SADO to reduce the number of support staff necessary for each staff attorney. Automated desktops and linking case production to the relational database have greatly reduced the need for support staff, which has allowed for the conversion of these positions to staff attorney positions. SADO has reduced the support staff from one secretary for two attorneys to one paralegal for four attorneys.

SADO's web site has won numerous awards for its design, usability, and richness of content. It is fully interactive and updated almost daily. The web site contains all of SADO's publications, related web site links, and a fully searchable brief bank. The web site is available to both SADO and non-SADO attorneys throughout the State.

**Audit Objective:** To provide a comparative analysis of SADO, public sector, and private sector salaries for attorneys and supervisors.

**Conclusion:** We developed a comparative analysis of SADO, public sector, and private sector salaries for attorneys and supervisors. The salary comparison is presented as supplemental information.

**Audit Objective:** To assess the effectiveness and efficiency of the Commission's system for evaluating the quality of indigent appeal services provided by MAACS's roster attorneys.

**Conclusion:** The Commission's system for evaluating the quality of indigent appeal services provided by MAACS's roster attorneys was generally effective and efficient. However, our assessment disclosed reportable conditions\* related to complaint investigation, performance reviews, and continuing legal education (Findings 1 through 3).

**Noteworthy Accomplishments:** Since its inception in 1985, MAACS monitored compliance with the assignment process through a cumbersome, manual mechanism involving monthly rotation of log sheets between MAACS and the individual circuit courts. Recently, MAACS implemented a new computerized, on-line system to

replace the manual process. The new on-line system is being used in 56 of the State's 57 circuit courts.

This new system has significantly simplified and improved the appointment process primarily because trial court local designating authorities can now prepare orders of appointment by going directly on-line to MAACS. Once basic information is entered in response to prompts, the computer rotates the circuit court's local list and presents the correct name for appointment. The trial court local designating authority then prints the order of appointment and obtains the judge's signature. Copies are then distributed to the judge, the appointed attorney, the indigent defendant, the Michigan Court of Appeals, and MAACS. The need for MAACS to monitor the rotation of assignments by exchanging log sheets has been eliminated.

Also, MAACS developed a system that automatically sends reminder notices to attorneys. The Michigan Court of Appeals monitors and tracks appeals "of right\*." As part of the monitoring process, the Court sends reminder notices to attorneys advising them when their time period for filing necessary briefs with the Court is about to expire. However, the Court does not monitor or track appeals "by leave\*." A 1994 voter referendum changed the type of appeals in most cases from "of right" to "by leave." The impact to MAACS's roster attorneys is that, in most instances, they no longer receive reminder notices from the Court. To address this issue, MAACS now automatically sends its roster attorneys a reminder notice four months prior to when the "by leave" appeal deadline expires. This helps to ensure that MAACS's roster attorneys file necessary briefs on a timely basis.

In addition, MAACS made roster attorney training improvements. MAACS recently produced and distributed to its roster attorneys a four-volume "expert lecture" series on compact disk. This series includes eight separate lectures by distinguished members of the criminal defense bar. The disks contain valuable information related to criminal appellate legal issues that can be used by criminal appellate practitioners to become more proficient in their profession.

---

**AUDIT SCOPE AND  
METHODOLOGY**

Our audit scope was to examine the program and other records of the State Appellate Defender Office and the Michigan Appellate Assigned Counsel System. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Our audit work included examination of SADO and MAACS operations for the period October 1, 1998 through June 30, 2001. Our examination included researching applicable statutes, regulations, and Commission minutes to gain an understanding of the Commission's programs. Also, we reviewed financial records, personnel policies, agency caseload data, records related to circuit court case assignments, and attorney credentials and experience to assess the effectiveness and efficiency of the Commission's system for ensuring the quality of indigent appeal services provided by court-appointed attorneys.

We researched the salaries of attorneys and supervisors in both the public and private sectors by obtaining and evaluating salary surveys, pay schedules, and compensation plans. We obtained and evaluated documentation related to job duties and discussed

attorneys' and supervisors' salaries with management personnel.

---

**AGENCY RESPONSES  
AND PRIOR AUDIT  
FOLLOW-UP**

Our audit report includes 3 findings and 3 corresponding recommendations. The Commission's preliminary response indicated that it agrees with the findings and has complied or will comply with the recommendations.

The agency complied with 6 of the 8 prior audit recommendations included within the scope of our current audit. One prior audit recommendation was repeated and 1 was rewritten for inclusion in this report.