

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

**MARCH 18, 2015
DETROIT, SADO
12:00 P.M.**

PRESENT:

COMMISSIONERS: CHAIRPERSON JOHN NUSSBAUMER, THOMAS ADAMS, JUDGE CAPRATHE, DOUGLAS MESSING AND JUDITH GRACEY

OTHERS PRESENT:

SADO: DIRECTOR DAWN VAN HOEK, DEPUTY DIRECTOR MICHAEL MITTLESTAT, CDRC ADMINISTRATOR MARLA MCCOWAN, FISCAL MANAGER BRYAN VANCE, HUMAN RESOURCES MANAGER WENDY SCHAUB, AND MARILENA DAVID-MARTIN

MAACS: ADMINISTRATOR BRAD HALL

GUESTS: CHRISTINE PAGAC AND MIKE FARAONE

COMMISSION AGENDA

WELCOME AND INTRODUCTIONS

Ms. Van Hoek announced that CDRC Administrator Marla McCowan will be leaving SADO at the end of March to become the Director of Training, Outreach and Support for the MIDC. Ms. Van Hoek read a Resolution of Appreciation from the Commission:

Whereas, Marla R. McCowan served as a staff attorney at the State Appellate Defender Office from 1998 to 2011, showing extraordinary commitment to justice for her clients and excellence in appellate advocacy;

Represented Reginald Lett in his state court appeals through the resolution of his case by the United States Supreme Court, showing uncommon skill in oral argument and briefing;

Ably represented 303 individual clients during her tenure at SADO;

Demonstrated leadership and vision as Administrator of the Criminal Defense Resource Center, a position she assumed in 2011;

As CDRC Administrator, developed exceptional web resources, training and a community for assigned criminal defense attorneys statewide;

Pursued a holistic defense approach to representation developed through the renowned Gideon's Promise project, which was shared with SADO staff and Michigan's training community;

Showed exceptional aptitude and skill with technological solutions for assigned counsel, sharing apps, tips, and substantive training with all;

Nurtured an atmosphere of fun, while remaining serious about the SADO and CDRC missions;

Earned the utmost respect from her colleagues and attorneys statewide; and

Has chosen an exciting and challenging new chapter in her public service career by becoming the Training, Support and Outreach Director for the Michigan Indigent Defense Commission;

The Appellate Defender Commission recognizes and thanks Marla R. McCowan for her extraordinary service during seventeen years at SADO, and for her inspiring vision, dedication and leadership on all criminal defense issues.

Ms. Van Hoek announced that Marilena David-Martin will assume the CDRC Administrator position. Ms. David-Martin has received numerous accolades in her young career, including recognition by the Young Lawyers Section of the State Bar of Michigan and CDAM's Justice for All Award for her work on the Crime Lab Project at SADO. She's an excellent lawyer and very dedicated to community service. She's launched SADO's Community Outreach Nights for Friends and Families of clients and helped launch SADO's reentry resources project for the website.

Ms. Van Hoek introduced Michael Mittlestat as SADO's new Deputy Director, replacing Jonathan Sacks. Mr. Mittlestat came to SADO from the Washington State Appellate Project. He's been with SADO for about ten years and has been an extraordinary

lawyer. He received the Commission's Excellence in Appellate Advocacy Award in 2013.

RECOGNITION OF ADC ADVOCACY AWARDEES

On behalf of the Commission, Mr. Hall presented MAACS Roster Attorney Mike Faraone with the 2014 Barbara R. Levine Excellence in Appellate Advocacy Award. Also on behalf of the Commission, Ms. Van Hoek presented SADO Assistant Defender Christine Pagac with the 2014 Norris J. Thomas Excellence in Appellate Advocacy Award.

APPROVAL OF THE MINUTES FROM THE MEETING OF DECEMBER 17, 2014

Chairperson Nussbaumer moved, seconded by Commissioner Adams to amend the minutes to reflect that Ms. Van Hoek received a highly-complimentary performance evaluation from the Commission in Executive Session. Carried.

Judge Caprathe moved, seconded by Commissioner Messing, to approve the Minutes of the December 17, 2014 meeting as amended. Carried.

ADC MEMBERSHIP EXPIRING TERMS

Four commissioners' terms are expiring in May, including Chairperson Nussbaumer, Commissioner McNeill, Commissioner Cranmer, and Commissioner Gracey.

ADC MEETING LOCATIONS FOR 2015

Chairperson Nussbaumer announced the remaining meeting dates for 2015 as follows:

June 17th (Lansing)
September 16th
December 16th

ANNUAL REPORTS

The annual reports are behind schedule this year due to upper management turnover, but they will be ready by the June meeting.

SADO & MAACS CONSOLIDATION / NEEDS ASSESSMENT / STRATEGIC PLANNING

Ms. Van Hoek updated the Commission on the progress of the SADO/MAACS consolidation.

- Finance, Human Resources, and IT functions have been consolidated.

- A new case management / appointment system is being developed.
- Job descriptions are being rewritten.
- The budgets for the agencies will be joined next year.
- A lease has been signed for a consolidated workplace in Lansing with a move-in date of June 1st.
- MAACS convened a focus group.
- A draft of the Administrative Order is due to the Supreme Court on October 1, 2015. Chairperson Nussbaumer wants a draft for Commission review by the June meeting.
- Ms. Van Hoek and Mr. Hall are working on regulations and internal operating procedures for MAACS and hope to have a draft to the Commission by June.

SADO AGENDA

BUDGET

Ms. Van Hoek reported that there may be a modest budget reduction in FY 2016.

CAPACITY AND FORMULA

With the promotion of two caseload attorneys to management positions, SADO's capacity has been slightly reduced in 2015, down from 28% to 27%. Once new attorneys are hired and trained, capacity will increase again. SADO intends to post open attorney positions immediately.

GRANTS

Ms. Van Hoek reported that the DNA grant was extended for two years and the Wrongful Conviction grant will begin again on May 1st.

MCOLES indicated that the money for the training grant dried up this year. This will affect both SADO and MAACS trainings, as well as the prosecutors. SADO's books are funded through MCOLES, so SADO may bring the book production in-house.

CASE HIGHLIGHTS

Mr. Mittlestat provided a summary of SADO case highlights to the Commission.

MAACS AGENDA

GRANTS

SADO and MAACS are preparing a Byrne JAG grant request that seeks funding for defense investigators and experts. A project description was provided to the Commission in the meeting materials.

NEW ADDITIONS TO THE ROSTER

Mr. Hall reported that Richard Goodman joined the roster at level 3 and is on the lists for Wayne, Macomb and a small handful of other circuits. David Herskovic joined the roster at level 2 and did not choose Wayne County, where there is a shortage of level 2 and 3 roster attorneys, but he is willing to consider it in the future.

APPLICATIONS TO JOIN AT LEVEL II

Mr. Hall provided the Commission with materials relating to three roster applicants, Alona Sharon, Alanna O'Rourke, and Bari Wood. All three need Commission approval to join the roster at level 2 because they do not meet the technical requirements for that level. They could join based on comparable experience with Commission approval.

Judge Caprathe moved, seconded by Commissioner Messing, to approve Alona Sharon, Alanna O'Rourke, and Bari Wood to join the roster as level 2 attorneys. With regards to Ms. Wood, MAACS will monitor the number of appointments she receives, provide a mentor, and require that she watch the orientation video. Carried.

COST INCENTIVES

Ms. Van Hoek and Mr. Hall are working on a group rate for Westlaw services, and possibly malpractice insurance, for MAACS attorneys. The group rate would be a huge discount in comparison to an individual rate and would be used as an incentive to recruit new attorneys. Westlaw and CDRC services may be packaged together.

FEE LITIGATION SUPPORT

Mr. Hall is looking at new cases, in addition to Ujlaky, to see where MAACS may want to get involved in supporting fee litigation.

WAYNE TRANSCRIPTS

Roster attorneys currently have to travel to Wayne County to pick up the transcripts in their cases and then must also return them to the county. This, along with low fees, is a barrier to joining the Wayne list because it is enormously inconvenient and creates additional travel costs for the already low paid attorney. Mr. Hall is working on a solution that would have the court reporters prepare pdfs of the transcripts to provide electronically to the roster attorneys.

MAPPIS ACCESS / ATTORNEY REVIEW PROCESS

MAACS is working on getting access to MAPPIS so they can review pleadings for roster attorney performance reviews.

DENIALS OF COUNSEL

MAACS currently does not get copies of all denials of counsel from all circuits. The current AO does not require it. Mr. Hall stated that in the draft of the new AO, language will be added requiring circuits to provide copies of all denials of counsels to MAACS.

PROPOSED PILOT PROJECT

Mr. Hall is exploring a pilot project proposal that would group circuits by region for the purpose of appointing counsel and administering the roster. The pilot project would start with multiple circuit courts in a region. All local roster attorney lists would be combined, creating just one list to manage. In order to do so, fees would have to be standardized across the region, requiring all circuits involved to adopt a common fee schedule voluntarily. MAACS could then offer to take over the administrative responsibilities associated with appointing counsel from the regional list, including writing Orders of Appointment, selecting and replacing counsel, and sending out packets of information to defense counsel, prosecutors, etc.

CASE HIGHLIGHTS

Mr. Hall provided a summary of recent roster attorney successes to the Commission.

The meeting was adjourned at 2:35 p.m.

Respectfully submitted,
Wendy Schaub
SADO

APPELLATE DEFENDER COMMISSION

BY: _____


John Nussbaumer, Chair