

**APPELLATE DEFENDER COMMISSION MEETING  
MINUTES**

JUNE 20, 2018  
DETROIT, SADO  
12:00 P.M.

**PRESENT:**

**COMMISSIONERS:** Chair Thomas Cranmer, Hon. William Caprathe, Judith Gracey, Doug Mains, Tom McNeill, and Douglas Messing.

**OTHERS PRESENT:**

**SADO/MAACS:** Director Jonathan Sacks, SADO Deputy Director Michael Mittlestat, MAACS Administrator Brad Hall, MAACS Deputy Administrator Kathy Swedlow, CDRC Administrator Marilena David-Martin, Fiscal Manager Bryan Vance, and Office & Human Resources Manager Wendy Dealca.

**GUESTS:** Dawn Van Hoek

**APPROVAL OF THE MINUTES FROM THE MEETING OF MARCH 21, 2018:**

*Commissioner Caprathe moved, seconded by Commissioner Gracey, to approve the minutes of the March 21, 2018 meeting. Carried unanimously.*

**DEDICATION FOR DAWN VAN HOEK ON OCCASION OF HER RETIREMENT:**

SADO dedicated its multipurpose space, which was designed by Dawn Van Hoek and is utilized by staff on a regular basis for office meetings and events, to Dawn Van Hoek as a thank you and way of honoring her for her commitment to SADO's clients and community.

**UPDATES:**

Budget: Mr. Sacks reported that SADO's 2018-2019 budget includes funding for the Juvenile Lifer Unit, which was previously eliminated but had been restored after some legislative meetings.

Hiring: SADO hired two new caseload attorneys, Steven Helton and Lindsay Ponce. Ms. Ponce previously worked for the Missouri Public Defender Office and was hired to work in SADO's Juvenile Lifer Unit in 2016. She will now become a regular caseload attorney. Steven Helton was in private practice and was a MAACS roster attorney. Mr. Helton will also receive a regular caseload. SADO plans to hire three more positions, including a Juvenile Lifer Unit attorney, a mitigation specialist, and an attorney resource

person for the MAACS roster to replace the Byrne/JAG grant-funded AIP Attorney position.

Strategic Planning: SADO received a technical assistance grant through the U.S. Department of Justice to work with the Center for Court Innovation to help SADO with developing a strategic plan.

SADO/MAACS IOPs: SADO put together a team to develop internal operating procedures to address overlapping issues and conflicts of interest that may have arisen from the merger of MAACS and SADO.

Recruitment and Diversity: Kathy Swedlow is chairing the workgroup on recruitment and diversity. The workgroup is writing a draft policy that will address the selection and hiring of regular employees and roster attorneys, and will be tailored to address their unique recruiting challenges. SADO plans to present the Commission with a policy and/or process at its September meeting. In the meantime, SADO is applying some principles, like objective and blind review of applicants, to its selection decisions to see how they work out.

MAACS: Mr. Hall reported that the newer court rule went into effect on May 1<sup>st</sup> and now all of the new MAACS structural changes are in effect. MAACS also added more circuits to their regional assignment lists. However, the receptive courts joined the regional lists early on and now it's more difficult to get the remaining courts to join the regional assignment lists.

Juvenile Lifer Unit: Mr. Mittlestat reported that SADO has done 74 resentencings to date. From the resentencings, SADO estimates it saved over 32 million in incarceration costs for the state. Of the remaining juvenile lifer cases, 106 clients are slated for *Miller* hearings. *Miller* hearings are expected to be very involved and time consuming, so SADO will work with individual jurisdictions to help them understand that they will take time and that all cases cannot be pushed through the system at once. Commissioners McNeill and Cranmer stated that they may know attorneys who would be interested in doing some pro-bono second chair work on the cases slated for *Miller* hearings, to which Mr. Mittlestat advised that he would write up a one-pager about the juvenile lifer work that can be shared with those who might be potentially interested in helping out.

Training and Reentry: Ms. David-Martin reported that the Reentry Project is a volunteer-based effort. However, SADO is looking for funding sources to fund a social worker and reentry coordinator and has recently applied for a grant for the project. SADO will have 5-6 juvenile lifers getting out of prison in a couple of months who will need reentry services. Ms. David-Martin provided the Commission with an evaluation report conducted by The Urban Institute on SADO's Reentry Project. The evaluation researchers found that SADO's Reentry Project is filling gaps in services that are not being met right now.

Case Highlights: Mr. Mittlestat and Mr. Hall provided a summary of case highlights to the Commission.

MIDC: Mr. Sacks reported that the MIDC will receive 84 million in the next budget cycle. The legislature is doing everything right to fund the trial side of public defense.

SADO will ask for a much lower funding commitment to address shortages on the appellate side. Mr. Sacks reported that MIDC is paving the way for higher hourly rates for assigned counsel too.

#### **POLICY – REIMBURSEMENT FOR PROFESSIONAL CREDENTIAL FEES:**

Mr. Sacks asked the Commission to adopt SADO's Reimbursement for Professional Credential Fees policy which provides SADO employees with the opportunity to seek reimbursement for expenses related to obtaining or maintaining job-related credentials, such as licenses or certifications required in Michigan for employees who meet eligibility requirements. The policy is subject to the availability of funds.

***Commissioner McNeill moved, seconded by Commissioner Caprathe, to adopt the Reimbursement for Professional Credential Fees policy. Carried unanimously.***

#### **FORMULA – STRATEGY AND CONSIDERATIONS FOR REBALANCING:**

Mr. Hall presented a strategy for rebalancing the workload between the defender side of SADO and the assigned counsel side. The rebalancing effort would include SADO shifting towards taking more trial appeals and a lower number of plea appeals with the goal of having trial appeals make up the bulk of SADO's work. This would deploy the resources of the defender office where they can be utilized best and would alleviate financial uncertainty on the circuits since more of the unpredictable, high-cost cases would be handled by SADO. Under this strategy, SADO would focus on cases pending before the appellate courts of the state, taking more than 25% of those cases. Discussion ensued and the Commission expressed their support for the strategy.

Mr. Sacks reported that he would put the proposal specifically in front the Commission for a vote at the September meeting.

#### **PERSONNEL:**

Ms. Dealca provided the Commission with a memo from SADO's attorney regarding a personnel matter.

***Commissioner McNeill moved, seconded by Commissioner Caprathe to proceed into closed session at 2:35 PM per MCL 15.268(h), to discuss the attorney's memo, which is exempt from disclosure per MCL 15.243(1)(g) of the Freedom of Information Act, information subject to attorney client privilege. The motion passed with Commissioners Gracey, Caprathe, Mains, Messing, McNeill, and Cranmer in favor. The Commission invited Mr. Sacks to participate in the closed session.***

***Commissioner McNeill moved, seconded by Commissioner Caprathe to end the closed session and resume the regularly scheduled meeting at 3:25 PM. The motion passed with Commissioners Gracey, Caprathe, Mains, Messing, McNeill, and Cranmer in favor.***

Chairperson Cranmer explained that the Commission will get some additional counsel on the personnel matter and will consider the matter further at a later date.

The meeting was adjourned at 3:30 p.m.

Respectfully submitted,

Wendy Dealca  
SADO

APPELLATE DEFENDER COMMISSION

BY:   
Thomas W. Cranmer, Chair