

**APPELLATE DEFENDER COMMISSION MEETING
DRAFT MINUTES**

SEPTEMBER 19, 2018
LANSING, SADO
12:00 P.M.

PRESENT:

COMMISSIONERS: Chair Thomas Cranmer, Doug Mains, Douglas Messing, and Hon. William Caprathe via phone

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: Tina Olson, Ayda Rezaian-Nojani, and Jessica Zimbelman

WELCOME AND INTRODUCTIONS:

Mr. Sacks introduced three SADO employees to the Commission. Tina Olson was originally hired as an Assistant Defender in SADO's Juvenile Lifer Unit and was recently promoted to the Juvenile Lifer Unit Manager position. Jessica Zimbelman has been an Assistant Defender with SADO for six years and was recently promoted to the Litigation Support Counsel position with MAACS. Lastly, Ayda Rezaian-Nojani was hired in January of 2018 as SADO's DNA Project Attorney and is working on the federal grant project.

APPROVAL OF THE MINUTES FROM THE MEETING OF JUNE 20, 2018 AND JULY 23, 2018:

Commissioner Mains moved, seconded by Commissioner Messing, to approve the minutes of the June 20, 2018 and July 23, 2018 meeting. Carried unanimously.

UPDATES:

Budget: Mr. Sacks reported that SADO's 2018-2019 budget includes the initially omitted funding for the Juvenile Lifer Unit. He added that the Litigation Support Counsel position has been added to the MAACS side of operations and that CDRC may receive some additional revenue through MIDC in FY 2019. SADO's budget request for FY 2020 is not due until January, instead of in a couple of weeks, because of the election cycle. Mr. Sacks has additional time to meet with legislators and stakeholders before preparing a budget request. For FY 2020, SADO's strategy will be first to continue to receive funding

for the Juvenile Lifer Unit until the work is done. Second, SADO's strategy will include asking for funding to grow the public defender office to increase capacity, and thus SADO will make the case for counties and courts to use their savings from less MAACS appeals to increase rates of payment to roster attorneys.

Hiring: Mr. Sacks reported SADO hired two new attorneys in the Juvenile Lifer Unit. The attorneys have trial backgrounds, which SADO thought was an important qualification as the *Miller* hearings get underway. The first new hire was Becky Hahn who worked as a public defender in Chicago and with the Michigan Innocence Clinic. The second hire was Claire Ward who previously worked as a public defender and has been in private practice in Massachusetts. SADO will also hire mitigation specialist for the Unit and hired a mitigation specialist for the regular caseload attorneys.

Strategic Planning: Pursuant to a Department of Justice technical assistance grant, the Center for Court Innovation that is helping SADO with its strategic planning, and will make its first site visit in January of 2019.

Juvenile Lifer Unit: Mr. Mittlestat reported that SADO has conducted 76 resentencings to date and that 27 clients have been released. From the resentencings, SADO estimates it saved over 33.5 million in incarceration costs for the state. Of the remaining juvenile lifer cases, 105 clients are slated for *Miller* hearings, where prosecutors will seek Life Without Parole sentences.

MAACS: Mr. Hall reported that MAACS was able to achieve a positive result for MAACS roster attorney Suzanna Kostovski in the *Hill* case. The Supreme Court vacated the costs it had imposed. Mr. Hall updated the Commission with progress on additions to the regional assignment lists. MAACS recently added Lenawee and Calhoun counties and expects to add a handful of other counties soon. Ms. Swedlow reported that MAACS added 23 attorneys out of 33 applicants to the roster. The roster has 116 active attorneys, 61 Level 1 attorneys, 49 Level 2 attorneys, and 6 Level 3 attorneys.

Training and Reentry: Ms. David-Martin provided the Commission with the agenda for MAACS New Attorney Orientation and the MAACS Fall Training in October. The Fall Training will include breakout sessions this year so that attorneys can choose sessions that are most interesting. There are about 80 registrants for the training so far. Ms. David-Martin also reported that SADO has been recognized as a field placement office for the Wayne State School of Social Work students.

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

FORMULA:

Mr. Sacks followed-up on the presentation and discussion from the June 20th Commission Meeting regarding a shift in the formula to a consideration of "pending appeals," that would allow for better client-centered caseload distribution, control costs for the counties, potentially lead to more competitive fees for the roster attorneys, and enhance the quality of representation.

Commissioner Messing moved, seconded by Commissioner Mains, to authorize the State Appellate Defender Office and Michigan Appellate Assigned Counsel System to make intake and assignment decisions based upon the requirement of 25% of criminal appeals pending before appellate courts. Carried unanimously.

Mr. Mittlestat provided an update on current year intake for SADO. SADO is projecting closer to 3400 appeals this year, which is an increase of a few hundred of cases from previous years.

RECRUITMENT AND DIVERSITY:

Mr. Sacks provided the Commission with the draft SADO and MAACS Attorney Recruitment and Diversity Plan. SADO and MAACS have begun implementing the plan. Further discussion was tabled until the next Commission meeting in December.

CONTRACTS AND RFPs:

Commissioner Caprathe moved, seconded by Commissioner Messing, to authorize the State Appellate Defender Office to implement the following contracts and RFPs in Fiscal Year 2019:

- 1. Peter Van Hoek caseload contract***
- 2. Potential RFP – Reentry coordination***
- 3. Potential RFPs from Michigan Indigent Defense Commission grants – Criminal Defense Resource Center Support and Trial Training Development.***

Carried unanimously.

ANNUAL REPORT:

Mr. Sacks provided the Commission with the 2017 Annual Report for the State Appellate Defender Office.

Commissioner Messing moved, seconded by Commissioner Caprathe, to approve the publication of the 2017 Annual Report. Carried unanimously.

FORENSIC SCIENCE COMMISSION:

Mr. Sacks reported that the Innocence Project in New York contacted SADO to testify as experts on legislation for the Forensic Science Commission Act, which is House Bill No. 6026.

Commissioner Caprathe moved, seconded by Commissioner Messing, to authorize the State Appellate Defender Office to testify as experts on House Bill No. 6026 regarding the Forensic Science Commission Act. Carried unanimously.

The meeting was adjourned at 1:26 p.m.

Respectfully submitted,

Wendy Dealca
SADO

APPELLATE DEFENDER COMMISSION

BY: _____
Thomas W. Cranmer, Chair

DRAFT