

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

DECEMBER 10, 2019
DETROIT, SADO
12:00 P.M.

PRESENT:

COMMISSIONERS: In-Person: Chair Tom Cranmer, Tom Adams and Tom McNeill. Via telephone: Judith Gracey and Doug Mains.

OTHERS PRESENT:

SADO/MAACS: Director Jonathan Sacks, SADO Deputy Director Michael Mittlestat, SADO Deputy Director Marilena David-Martin, MAACS Administrator Brad Hall, MAACS Deputy Administrator Kathy Swedlow, and Commission Secretary MariaRosa Palmer.

Guests: Allison Gorinne, A’Narris Monger Jose Burgos, Maya Menlo, Jessica Newton, Adrienne Young, Erin Robinson, Erin Van Campen and Matt Monahan.

Welcome

Mr. Sacks introduced SADO guests: For Project Reentry Allison Gorinne; A’Narris Monger, the Americorp Fellow, and Jose Burgos. New SADO Assistant Defenders Maya Menlo; Jessica Newton and Matt Monahan; Assistant Defenders Adrienne Young and Erin Van Campen; and Erin Robinson, mitigation specialist for the Juvenile lifer unit.

APPROVAL OF THE MINUTES FROM THE MEETING OF SEPTEMBER 18, 2019:

Commissioner Mains moved to approve the minutes of the September 18, 2019 meeting. Carried unanimously.

UPDATES:

Budget: Mr. Sacks reported that SADO received the increase requested for the Juvenile Lifer Unit and funding for two additional attorneys for direct appeal caseloads. Mr. Sacks also set out SADO’s spending priorities for this year.

For Fiscal Year 2020/2021, SADO’s strategy will be the same, first to continue to grow SADO to help relieve the pressure from county funding units which may lead to an increase in fees for MAACS roster attorneys and second continued Juvenile Lifer Unit funding until the resentencings are complete.

Hiring: SADO added 4 new attorneys; 3 new mitigation specialists (2 for the Juvenile Lifer division and 1 for Direct Appeals); 2 reentry positions and the MAACS Litigation Support Specialist.

Detroit and Lansing Space: Mr. Sacks reported that the lease for Lansing SADO would expire on September 30, 2020 and he met with the building owners to negotiate a lease renewal. The 5-year lease renewal will include the following terms:

The 1st and 2nd year will remain at the current rate of \$22/sq ft. with a slight increase in year 3, 4 and 5. Mr. Sacks was also able to negotiate some improvements to one side of the suite to address noise concerns - carpet the entire office; raise the walls and add a ceiling to the center offices and adjust the heating and cooling units.

Commissioner McNeill moved, supported by Commissioner Adams to authorize Mr. Sacks to enter into the lease renewal for the Lansing Space. Carried.

In Detroit, SADO is still looking at new space and is currently working with the building about the ongoing elevator issue. The elevator in the building has been down and SADO has had to issue a new policy which states if the elevator is down for more than 15 minutes, the office is closed.

Formula: Mr. Sacks reported based on pending appeals the public defender division is at 29% trials and 21% pleas. SADO is currently at 28% of pending appeals.

Juvenile Lifer Unit: Mr. Mittlestat provided the Commission with an update – 94 clients await resentencing and 7 upcoming Miller Hearings.

MAACS

Mr. Hall indicated that were no additions to the Regional Circuit list but hopes to revisit several circuits soon. He also reported that Patricia Maceroni will join MAACS in late January as the Litigation Support Specialist. He also stated that the new voucher system is in the testing phase and expects to go live sometime in January.

Ms. Swedlow reported that MAACS currently has 132 active roster attorneys.

Implications for MAACS of Michigan Indigent Defense Commission (MIDC) Standard 5, Independence from the Judiciary: Mr. Hall also indicated that with a new voucher system and the pending approval of MIDC Standard 5, it may be the opportunity for MAACS to comply and shift the approval of vouchers away from the courts. MIDC Standard 5 moves toward independence from the judiciary in the appointment of counsel and the payment of counsel at the trial level. Discussion about whether this Standard would apply to MAACS attorneys was held.

Wayne County Update: The process is moving along to advocate for the uniform attorney fee policy, and a meeting is scheduled for January 28 with the County Deputy Executive, Richard Kaufman and Chief Judge Timothy Kenny.

Training and Reentry: The CDRC held its New Orientation Training and Annual Fall Training in October. Both were well attended and well received. Ms. David-Martin also shared with the Commission two upcoming trainings - a Mandatory staff training on Implicit Bias in February and Orientation Training Part 2 will be held in March. Lastly, the CDRC has a new Appellate Defender Manual for appellate attorneys which was written by Ms. Swedlow. This was distributed at the training and is an excellent resource for the new attorneys.

For reentry, A holiday party was hosted for project reentry participants. Ms. David-Martin also provided the Commission with the most recent issue of their newsletter, the DRUM. She also reported that SADO received a Bryne/Jag grant which will expand reentry services to MAACS, juvenile lifer, and direct appeal clients.

Strategic Planning: Ms. David-Martin reported that SADO is continuing to complete action items and is currently working on a client satisfaction survey for both SADO and MAACS and a Best Practice Checklist.

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

Policy Updates

Parental Leave Policy

SADO formed a Family Leave Workgroup to examine SADO's policy compared to other organizations. The workgroup found that the current policy was unfair to newer employees, provided no flexibility for longer leave time, and SADO was increasingly not competitive with new defender offices and other legal opportunities.

Mr. Sacks recommended that SADO change to a 12-week paid leave at full salary for the birth or adoption of a child, which would not require employees to substitute banked leave time to receive compensation. Employees would also have the option to extend parental leave for up to an additional 6 weeks using banked sick or annual leave time, or by taking the time off unpaid. The extended parental leave would run contiguous to the first 12 weeks.

Commissioner Adams moved, seconded by Commissioner McNeill to approve and adopt the parental leave policy. Carried unanimously.

Family and Medical Leave

With the adoption of the new Parental Leave Policy, clerical changes need to be made to the FMLA section of the SADO Employment Manual.

Commissioner Adams moved, seconded by Commissioner Messing to approve the changes in the Employment Manual. Carried unanimously.

Classification and Compensation Policy

SADO staff often present at trainings. If compensation is provided by the organization conducting the training, SADO staff will use annual time and accept compensation which is covered under the outside employment policy. However, if providing training on behalf of SADO and the trainings include non-SADO attorneys, the SADO employee may receive a bonus in addition to their regular salary, to prepare and present.

Commissioner Adams moved, seconded by Commissioner Messing to approve the revised compensation policy. Carried unanimously.

Criminal Defense Resource Center (CDRC) revenue and MIDC compliance plans'

The CDRC charges yearly membership fees to individual attorneys who use their services. Since the MIDC standard on Training and Education, counties have submitted plans which include membership to the CDRC. Last year, MIDC provided payment directly to the CDRC however this year, MIDC would prefer SADO directly bill the funding units based on per attorney. This method may require additional administration to avoid billing duplicates (i.e., an attorney may receive appointments in both Wayne and Macomb).

Mr. Sacks would like authorization for the CDRC to charge funding units for attorney services based on total numbers of attorneys that join the CDRC and MIDC grants provided to the funding units in addition to billing per attorney as requested by the MIDC. Mr. Sacks will report back to the Commission as to which charging system was used.

Commissioner McNeill moved, seconded by Commissioner Gracey to proceed with the CDRC revenue model as outlined by Mr. Sacks.

Michigan Joint Task Force on Jail and Pretrial Incarceration

Mr. Sacks reported that SADO submitted sentencing recommendations to the Michigan Joint Task Force on Jail and Pretrial Incarceration and was invited to do an in-person presentation. The recommendations were well received.

Director Evaluation

Mr. Sacks is due for an evaluation. Chairperson Cranmer will appoint a subcommittee to conduct the director evaluation.

ADC Advocates of the Year

Mr. Hall recommended John Zevalking receive the Barbara R. Levine award. Mr. Zevalking has done outstanding work for MAACS and SADO as a contract employee and serves his clients well as a MAACS roster attorney.

Commissioner McNeill moved, seconded by Commissioner Gracey to approve Ms. Hall's recommendation of John Zevalking as the recipient of the Barbara Levine Award. Carried unanimously.

Mr. Mittlestat recommended Kristin Lavoy receive the Norris Thomas award. Ms. Lavoy has been with SADO since 2013. Ms. Lavoy does excellent work for her clients and has received great results, she is an excellent trainer for SADO and helps mentor new SADO attorneys not only with their caseload but with balancing their work/life. She is enthusiastic and has a positive attitude.

Commissioner McNeill moved, seconded by Commissioner Adams to approve Mr. Mittlestat's recommendation of Kristin Lavoy as the recipient of the Norris Thomas Award. Carried unanimously.

2020 Commission Calendar

The dates for the Commission meetings for 2020 are as follows:

March 18, 2020

June 17, 2020

September 16, 2020 (Lansing)

December 16, 2020

Commissioner McNeill moved, seconded by Commissioner Adams to approve the dates for the 2020 Commission meetings. Carried.

The meeting was adjourned at 2:17 p.m.

Respectfully submitted,

MariaRosa J. Palmer
SADO

APPELLATE DEFENDER COMMISSION

BY: Thomas W. Cranmer, Chair