

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

SEPTEMBER 15, 2021
ZOOM MEETING
12:00 P.M.

PRESENT:

COMMISSIONERS: Chair Thomas Cranmer (Troy, Michigan), Judith Gracey (Keego Harbor, Michigan), Doug Mains (Lansing, Michigan) Douglas Messing (Detroit, Michigan), Thomas McNeill (Petoskey, Michigan), Honorable Thomas Solka (Appleton, Wisconsin), and Darryl Woods (Detroit, Michigan).

OTHERS PRESENT:

SADO/MAACS: Director Jonathan Sacks, SADO Deputy Director Marilena David-Martin, Direct Appeals Managing Attorneys Katherine Marcuz and Jessica Zimbelman, Juvenile Lifer Managing Attorney Tina Olson, MAACS Administrator Brad Hall, MAACS Litigation Support Specialist Patricia Maceroni, and Commission Secretary MariaRosa Palmer.

Guests: Marivel Gaitan; SADO Staff: Eric Buchanan, Wendy Dealca, Fernando Gaitan, Allison Gorine, Angie Jackson, Jackie Ouvry, Frank Rodriguez, Sabrina Schneider, and Bryan Vance.

Welcome

Mr. Sacks welcomed everyone and made introductions.

PUBLIC COMMENT

No public comment.

SADO STAFF AWARDS

The SADO staff award was presented to Fernando Gaitan and Frank Rodriguez. Mr. Sacks acknowledged the work done by both Mr. Gaitan and Mr. Rodriguez.

APPROVAL OF THE MINUTES FROM THE MEETINGS OF JUNE 16, 2021:

Commissioner Messing moved to approve the minutes of June 16, 2021, seconded by Commissioner Gracey. Carried unanimously.

UPDATES:

Case Highlights: Ms. Marcuz, Ms. Zimbelman and Ms. Maceroni provided a summary of SADO and MAACS case highlights to the Commission.

Juvenile Lifer Unit: Ms. Olson reported on the successes of the unit despite the challenges faced due to the pandemic, including 8 clients resentenced to a term of years. Ms. Olson also acknowledged the great work of MAACS roster attorneys on behalf of juvenile lifer clients. Ms. Olson also updated that mitigation specialists will attend online training and there will also be training for other members of the Juvenile Lifer Unit.

MAACS: Mr. Hall provided an update of the MAACS roster. MAACS currently has 66 level 1 (non-capital plea cases) and 51 level 2 (capital plea cases and trials) roster attorneys. These numbers are lower than in the past but it's a result of cleaning up the roster – promoting level 1 attorney and removing attorneys who were not actively accepting assignments. To date, MAACS has received 16 applicants. He is hopeful that MAACS will receive more applicants but competing with trial level lists where the pay is significantly better than appellate work may prove to be difficult. Commissioner Solka commented about the strides MAACS has made and questioned why the drop off in applications. Mr. Hall explained that the pay in appellate work at the top end is \$75/hour, in comparison to MIDC rates of \$100 – 120/hour.

Mr. Hall reported that 13th Circuit (Antrim/Grand Traverse/Leelanau) have joined the regional assignment list. Additionally, the 29th Circuit (Clinton/Gration) will adopt the standard fee policy beginning October 1. This will create the new Mid-Michigan region with 30th Circuit (Ingham). Mr. Hall acknowledged the work of the MAACS staff, Court Administrators and the Chief Judges for taking the step to regionalize and have uniform fees. Mr. Hall is hopeful that the few circuits that have not joined will be doing so soon.

Mr. Hall also reported on the status of a pilot project with Wayne County to move its vouchering system to the new Indigent Defense Services department and take on the regional lists and uniform fees policy. This department will utilize the MAACS voucher system. MAACS will do the initial review and then forward to their staff for review and payment. The Memorandum of Understanding has already been signed by Mr. Hall and Judge Kenny; MAACS now waits for the County Commission to sign off with an anticipated start date of October 1st.

Mr. Hall also shared that MAACS is working on separating work done by appellate attorneys between Court of Appeals filings and trial court filings with the hopes that the filings done in the trial court could be reimbursed with MIDC funding. Mr. Hall and Mr. Sacks have been invited to the MIDC meeting in December to explore this possibility.

Commissioners Cranmer and Messing congratulated Mr. Hall on his successes with the standard fee policy and especially for all the work done to add Wayne County with a pilot project.

Training and Reentry: Ms. David-Martin shared that the MAACS Orientation and Annual Appellate Defender Fall training will be held on various dates in October and offer 29 hours of CLE to SADO attorneys and MAACS Roster attorneys.

For reentry, Ms. David-Martin acknowledged the work done by the reentry team as they continue to help clients. She described a Mental Health virtual workshop in July and a recent workshop with the MDOC. This workshop was well attended by MDOC staff where they listened to feedback from results of a survey. The July issue of the Drum was also shared in the materials.

Court Rules and Legislation: Jessica Zimbelman informed the Commission that SADO submitted two comments on proposed amendments to court rules. She also indicated that she testified before the legislature regarding defense access to police reports.

Budget: No budget yet, but SADO's two priorities: restoration of the pre-COVID general fund level and continuation of the Juvenile Lifer Unit funding are expected to be included.

Grants: Mr. Sacks informed the Commission that they have not heard anything regarding the juvenile appeals grant but hopes to soon. He also shared that the Byrne JAG grant renewal has been approved with formal notice expected within the next few weeks. The Wrongful Conviction Grant is staffed and up and running.

Hiring: The Judicial Branch hiring freeze has ended. SADO has hired new staff – 4 new attorneys (a juvenile lifer attorney and 3 direct appeals attorneys); and 2 new mitigation specialists. An attorney and an investigator were also hired for the wrongful conviction grant.

Salaries and Reclassifications: In 2003, the Commission voted to provide parity with SADO and the Civil Service. The gap between the Attorney General and SADO salaries was at 87%. Mr. Sacks reported that an additional step was taken to continue to close the gap which is now at 95% after implementing higher than standard step increases for staff which ranged from 5-6.5%. Staff who already reached the top of their pay scale would also see a 1.5% increase.

The Information and Technology staff will also be reclassified to positions that better match their day-to-day jobs. The IT positions were initially hired as tech support and a web producer. Tech support will change to the Network/Security Administrator and SADO's web producer will change to Programmer/Developer. Mr. Sacks expects these changes to be implemented soon. He also reported that he is looking into more reclassifications at SADO.

Case Statistics/Intake: SADO is currently at 41% pending appeals and 47% pending trials. Mr. Sacks reported that these numbers are high but artificial because of the pandemic.

SADO Investments: Mr. Sacks thanked the Commission for approving two one-time SADO investments that were financially possible due the State's hiring freeze and the Penobscot Lease settlement. First, as to the Caseload Study, the SADO/MAACS advisory group, which consists of SADO and MAACS roster attorneys have already had their first meeting with the National Center for State Courts. Second, the Case Management System, this was a long overdue need for SADO. Legal Server was selected to work with SADO and expected to complete the project within 6 months.

Annual Report

Mr. Sacks acknowledged the staff for completing the 2020 Annual Report. SADO is requesting the Commission adopt the 2020 Report.

Commissioner Solka moved to adopt the 2020 Annual Report, seconded by Commissioner Messing. Carried.

Budget Authorization Carry Forward Contracts

Labor Relations Contract – James Perry

Mr. Sacks reported that collective bargaining has started with UAW and SADO requests to continue retaining Labor Relations attorney James Perry from Dickinson Wright for \$40,000. Commissioner Solka asked if SADO had only one bargaining unit which covered all staff including attorneys. Mr. Sacks confirmed that one bargaining unit covers all non-leadership staff.

Commissioner Woods moved to approve the carry-forward contract for Mr. Perry at \$40,000, seconded by Commissioner Mains. Carried. Commissioner McNeill abstained.

Juvenile Lifer Contract- Alona Sharon

Mr. Sacks requested the Commission approve a contract for \$15,000 for Alona Sharon to continue representation of Jonathan Belton in Oakland County. Commissioner Cranmer asked if the funds were available in the budget. Mr. Sacks noted that the funds were coming from this year's surplus and since the contract begins before October 1, these funds will carry forward to next year. Commissioner McNeill congratulated SADO for being proactive with Mr. Belton's case.

Commissioner Solka moved to approve the carry-forward contract for Alona Sharon at \$15,000, seconded by Commissioner McNeill. Carried.

Respectfully submitted,

MariaRosa J. Palmer
SADO

APPELLATE DEFENDER COMMISSION

BY: _____
Thomas W. Cranmer, Chair