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## Defense mechanism



A graduate of Northwestern University School of Law, Brad Hall clerked for the Cook County Public Defender Office, Southern Center for Human Rights, and following graduation, Judge Nancy G. Edmunds on the United States District Court for the Eastern District of Michigan.

## Attorney helps patch up Assigned Counsel System

**By Brett DeGroff**

Legal News

For years, Brad Hall battled cleanup for Michigan's indigent defense system. Now he's helping manage it.

As an attorney in the Federal Defender Office for the Eastern District of Michigan, Hall spent a lot of time over the last eight years litigating habeas corpus petitions and trying to catch the most egregious cases that slipped through the cracks of Michigan's

state courts. In January, Hall took over as the Administrator of the Michigan Appellate Assigned Counsel System (MAACS). In that role, Hall is tasked with patching up some of those cracks.

MAACS's role in Michigan's public defense system is a bit complicated. After a defendant is sentenced in Michigan he is immediately advised of his appellate rights. If the defendant requests appointed counsel, he enters into the somewhat byzantine world of MAACS. Indigent defense at the trial level in Michigan is handled on a strict county-by-county basis. Some counties have roster systems, some have public defender offices, but every county manages their own system. Appellate public defense is a hybrid of state and local control.

While there is a statewide roster of appellate lawyers overseen by MAACS, that roster is broken up into local lists for each of Michigan's 57 circuit courts. Each circuit has a designated administrator a "Local Designating Authority" to handle the administrative work of appointments. Each circuit has its own system and rates of payment. But all 57 of those systems are housed on a database that is administrated by MAACS. So, when the local administrator gets a case, he enters it into a MAACS database which assigns either the State Appellate Defender Office or an attorney off that circuit's local list.

"Since 1981 when the first MAACS administrative order was issued there have been a lot of technological changes," Hall said. "So now instead of having a rolodex in each circuit, there is a shared database. It's a system which was designed as a decentralized process which has evolved into a more centralized process."

And Hall thinks that he can wring additional efficiencies out of that system which can streamline operations for courts and attorneys as well as providing better defense for indigent defendants. Rather than have every circuit go it alone with setting rates and maintaining a local list, and every attorney navigating multiple payment schemes and varying rates, Hall thinks MAACS can offer regional lists that circuits could opt into and hand off some of the local administration.

This would also help standardize rates that range from \$25 an hour to \$75 an hour. This disparity doesn't even include the varying event-based payment systems. As a reference point, federal roster attorneys are paid \$125 an hour. Additionally, a regionalizing of lists would help workflow for roster attorneys who could expect assignments with more regularity, rather than unpredictable fits and starts.

Some of the reforms Hall envisions would likely be optional for circuits, since MAACS fees are paid entirely by the counties, rather than the state. That means he'll have to sell judges on his ideas if they're going to go anywhere. But he thinks that's a good thing.

"If we could have mandated a universal policy we wouldn't have had to think about ways to make this make sense for the circuits," Hall said. "We have to get voluntary buy in. We have to sell it to 57 circuit courts which have to manage their own budgets, and that makes it a more deliberate process."

It's a big challenge, but that is nothing new for Hall who never shied away from a case as a public defender.

"I like fighting for the underdog and taking it to an extreme," Hall said. "I like to represent the people you really don't like to discuss at cocktail parties. Taking those cases and giving those tough clients in difficult cases a better defense than money can buy is one of the most rewarding things about being a public defender."

One of Hall's favorite cases is actually a collection of cases arising out of a jury department computer error in Kent County. An inadvertent computer glitch essentially resulted in the exclusion of the majority of the African American community from the jury pool. A related case had its day in the Michigan Supreme

Court, but the defendant did not prevail. Now Hall is moving forward in federal court in habeas corpus proceedings, representing five petitioners whose lawyers neglected to preserve their claims in state court.

"It's a favorite case because there are so many really important procedural questions involved with habeas law," Hall said. "There is complex statistics and social science involved. I've loved working on the case."

He is now handling the case on his own time, trying to finish up the work he began years ago.

In a way, this case, Hall's other old cases, and his new job, are sort of similar.

"For the past eight years I've been trying to fix those disasters, the extreme malfunctions in the state court process," he said. "Now hopefully I'll be able to prevent some of those malfunctions in the first place."

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