

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

DECEMBER 14, 2016
DETROIT, SADO
12:00 P.M.

PRESENT:

COMMISSIONERS: Vice-Chair Tom McNeill, Tom Adams, Hon. William Caprathe, Judith Gracey, Doug Mains, and Douglas Messing

OTHERS PRESENT:

SADO/MAACS: Director Dawn Van Hoek, SADO Deputy Director Michael Mittlestat, MAACS Administrator Brad Hall, MAACS Deputy Administrator Kathy Swedlow, CDRC Administrator Marilena David-Martin, and Fiscal Manager Bryan Vance

COMMISSION AGENDA

APPROVAL OF THE MINUTES FROM THE MEETING OF SEPTEMBER 21, 2016

Commissioner Adams moved, seconded by Commissioner Caprathe, to approve the Minutes of the September 21, 2016 meeting. Carried unanimously.

ADC MEETING DATES AND LOCATIONS:

March 15, 2017 (Detroit)
June 21, 2017 (Detroit)
September 20, 2017 (Lansing)
December 13, 2017 (Detroit)

POLICY MANUAL UPDATING:

Ms. Van Hoek asked the Commission to adopt a new training policy for SADO employees. The new policy tracks MIDC's annual training standard and is as follows:

Annual Training Requirement

All attorneys must attend at least 12 hours of training per year. New attorneys (less than 3 years of experience) must attend at least 16 hours of training per year. All non-attorney staff must attend at least 8 hours of training per year.

All employees who present as faculty at training events will receive double hours of credit for their presentations, subject to the discretion of the Training Director.

Commissioner Messing moved, seconded by Commissioner Adams, to adopt the Annual Training Requirement policy for SADO's employee handbook. Carried unanimously.

MAACS AGENDA

BARBARA R. LEVINE ADVOCATE OF THE YEAR NOMINEE

Mr. Hall nominated Alona Sharon for the Barbara R. Levine Advocate of the Year Award for 2016.

Commissioner Messing moved, seconded by Commissioner Adams, to approve the nomination of Alona Sharon by Mr. Hall for the Barbara R. Levine Advocate of the Year Award for 2016. Carried unanimously.

REGIONAL PILOT PROJECT

Mr. Hall presented the Year One Report on the Regional Pilot Project to the Commission. The pilot project has been well received by the participating circuits even though hourly fees have increased for roster attorneys under the project.

For 2017, Mr. Hall would like to double the number of circuits participating in the pilot project and expand to other geographic regions in the state. There are four courts that are ready to join right now.

CHILD WELFARE PILOT PROJECT

Mr. Hall informed the Commission that he has been in discussions with Lisa Speaker, a prominent child welfare attorney, about whether there should be a centralized, appointed counsel system similar to MAACS to handle child welfare cases.

PRO BONO APPELLATE PROJECT

Mr. Hall updated the Commission that the project is still in the works, but is moving along slower than initially hoped for because MAACS is currently focusing on the launch of the new assignment system and pilot project.

ROSTER RETENTION AND PERFORMANCE EVALUATION UPDATE

Ms. Swedlow reported that a comprehensive review of the entire roster is still underway and that it will take more time to the review as thorough as it needs to be done. She added that ten roster attorneys are currently on stand-by status because of performance issues, some of which may not be retained. A detailed written report on the status of the roster retention review was given to the Commission. Ms. Swedlow added that while conducting a review of the entire roster, MAACS is also reclassifying the roster attorneys into the new levels that will become effective on January 1, 2017 in conjunction with the newly adopted regulations.

REQUESTS FOR ADMISSION ABOVE LEVEL 1

Commissioner Adams moved, seconded by Commissioner Gracey, to approve requests for Clarence Dass to join the roster as a Level 2 attorney, and Gaëtan Gerville-Réache and Joseph Richotte to join as Level 2 attorneys for special assignments. Carried unanimously.

MAACS TRAINING UPDATE

Mr. Hall reported that roster attorneys have indicated that training is better than it has ever been for them.

Ms. David-Martin updated the Commission on the various training events that have been held recently, as well as what is planned for the future. Training events have included:

- MAACS roster orientation for about 22 new roster attorneys;
- A "mixer" where SADO attorneys attended the event with MAACS attorneys, opening up opportunities for networking;
- Fall training in two locations, held in-person rather than simulcast this year;
- An Appellate Writing Workshop with 15 attendees;
- Pop-up trainings, which are focused web-based training lasting about 5-10 minutes on very specific topics or technical issues; and
- Various juvenile lifer focused training events such as a two-day sentencing mitigation training and a session on how to handle traumatic client interviews.

Upcoming trainings will include:

- Training on litigating ineffective assistance of counsel claims (scheduled for February 2017 training);
- Training on psych assessments, MDOC records analysis, and parole prep are being planned; and
- More pop-up, web-based training events.

Ms. David-Martin also informed the Commission that SADO received MCOLES funding to create a new appellate defender manual.

CASE HIGHLIGHTS

Mr. Hall provided a summary of recent roster attorney successes to the Commission.

SADO AGENDA

BUDGET

Ms. Van Hoek reported that SADO requested a budget enhancement of 1.4 million dollars in 2018 to handle juvenile lifer cases. As those cases wind down in subsequent years, she will request to keep the funding so that SADO could handle a greater share of the regular appeals, hopefully giving SADO the capacity to handle 40% of the statewide appeals in four years.

HIRING/PROMOTION AT SADO

SADO contracted with Julianne Cuneo of Sunshine Investigations for professional investigation and mitigation services for its juvenile lifer cases.

NORRIS J. THOMAS ADVOCATE OF THE YEAR NOMINEE

Mr. Mittlestat nominated Erin Van Campen for the Norris J. Thomas Advocate of the Year Award for 2016.

Commissioner Mains moved, seconded by Commissioner Adams, to approve the nomination of Erin Van Campen by Mr. Mittlestat for the Norris J. Thomas Advocate of the Year Award for 2016. Carried unanimously.

CAPACITY / FORMULA

Mr. Mittlestat reported that, even with the influx of juvenile lifer cases, SADO has still taken above 25% of the appeals for the year. For 2017, with the additional juvenile lifer cases, SADO projects it will handle approximately 22% of all other appeals.

JLWOP UPDATE

Mr. Mittlestat reported that SADO is handling 204 juvenile lifer cases. Prosecutors filed for life without parole in 142 of those cases. The defendants in the other 62 cases will be resentenced to a term of years. The term of years cases have been moving forward and SADO has had a lot of success early on. Mr. Mittlestat predicts SADO can work through the term of years cases by September 2017, but the life without parole cases will take much longer.

Ms. Van Hoek added that the juvenile lifer cases have created a greater need for SADO's reentry project. SADO has two interns, Motoki Taniguchi and Danielle Motley, working on the project.

MIDC UPDATE

Ms. Van Hoek reported that the bill to move MIDC out of the judicial branch and into LARA in the executive branch is moving forward and will likely pass.

GRANTS

Ms. Van Hoek reported that the Appellate Investigation Project is continuing with Byrne JAG funding. SADO's Wrongful Conviction grant project will end in February 2017.

CASE HIGHLIGHTS

Mr. Mittlestat provided a summary of SADO's case highlights to the Commission.

The meeting was adjourned at 3:01 p.m.

Respectfully submitted,
Wendy Dealca
SADO

APPELLATE DEFENDER COMMISSION

BY: 
Thomas W. Cranmer, Chair