

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

MARCH 21, 2018
DETROIT, SADO
12:00 P.M.

PRESENT:

COMMISSIONERS: Chair Thomas Cranmer via phone, Tom Adams, Hon. William Caprathe, Judith Gracey, and Douglas Messing.

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: Peter Jon Van Hoek, Dawn Van Hoek, and Kristina Dunne.

COMMISSION AGENDA

APPROVAL OF THE MINUTES FROM THE MEETING OF DECEMBER 13, 2017:

Commissioner Adams moved, seconded by Commissioner Caprathe, to approve the minutes of the December 13, 2017 meeting. Carried unanimously.

RESOLUTION FOR DAWN VAN HOEK, APPELLATE DEFENDER, ON OCCASION OF HER RETIREMENT:

The Commission will present Dawn Van Hoek with a Resolution of Thanks for her service to the State Appellate Defender Office at its June meeting.

RECOGNITION OF ADC ADVOCATES OF THE YEAR:

Mr. Hall presented MAACS's Barbara R. Levine Award for 2017 to Kristina Dunne for outstanding appellate advocacy.

Mr. Mittlestat presented SADO's Norris J. Thomas Award for 2017 to Peter Van Hoek for outstanding appellate advocacy.

RECRUITMENT AND DIVERSITY:

Mr. Hall and Ms. Swedlow have been working on a diversity and recruitment plan for the roster and SADO recently formed a diversity committee to do the same for its staffing. Mr. Sacks stated that a unified recruitment and diversity plan to cover both the MAACS roster and all SADO operations will be presented at the June meeting. Ms. Swedlow will chair the committee.

Commissioner Tom Adams offered to help SADO's diversity committee with the development of their plan.

SADO / MAACS AGENDA

BUDGET:

Mr. Sacks advised that SADO requested funding for its Juvenile Lifer Unit for FY 2018/2019, but that the Governor's Budget Recommendation that was released in February did not include the funding for the unit. Over the past several weeks, Mr. Sacks met with numerous legislators on the appropriations subcommittees and presented SADO's case for the continued funding. The Governor's office issued a new recommendation that included the funding for the unit. Both the senate and house appropriations committees have also recommended the continued funding for the unit based on the Governor's revised recommendation.

STAFF AND HIRING:

Mr. Sacks said that SADO placed staffing and hiring decisions on hold while waiting to see what happened with the budget for the Juvenile Lifer Unit. SADO plans to interview nine candidates for an attorney position in April. Depending on turnover, SADO will hire one or two attorneys in this cycle and will have the potential to hire one or two more positions in the next cycle. Mr. Sacks added that the office needs attorneys, a mitigation specialist, and a MAACS resource attorney to take the place of the attorney on the Appellate Investigation Project once that grant comes to an end.

CAPACITY / FORMULA:

Mr. Mittlestat projected that SADO will handle 20% of the appeals in 2018. This estimate is based on 3100 projected appeals for the year and accounts for reductions in SADO's capacity due to retirements, multiple leaves of absence, and juvenile lifer caseloads.

SADO / MAACS UMBRELLA AND IOPS:

Mr. Sacks wants SADO's staff and the Commission to think of SADO and MAACS as a unified defender agency and plans to extend that concept. SADO is the public defender side with salaried attorneys and the roster of assigned counsel is the private side. SADO's IOPs need to be updated to reflect the merged agency and cover the operations and procedures under one umbrella. Mr. Sacks expects to present some IOPs to the Commission at the September meeting.

LONG-TERM PLANNING PROCESS:

Mr. Sacks advised that he wants to develop a formal strategic plan that will include two year planning and five year planning for SADO.

Michigan Court Rule STATUS:

Mr. Hall reported that MAACS has not seen any opposition to the court rule that instructs the trial courts to generate the entire court record at the time appellate counsel is appointed. There is a public hearing on the proposed court rule on March 28th at the Supreme Court.

ROSTER STATUS:

Ms. Swedlow provided the Commission with a report on the roster. The roster currently has 129 active attorneys consisting of the following:

- 70 Level 1 attorneys
- 52 Level 2 attorneys
- 7 Level 3 attorneys

21 attorneys are in a “standby” status, which means they are not receiving regular assignments due to non-performance reasons. Ms. Swedlow added that roster attorneys are much better at filing their pleadings on time now.

JLWOP UPDATE:

Mr. Mittlestat reported that SADO has had 67 juvenile lifer clients resentenced, resulting in an estimated 864 years in reduced sentences and a savings of incarceration costs of almost 29.9 million for the state. SADO has 124 remaining juvenile lifer cases, of which 109 face comprehensive and contested “Miller” hearings.

TRAINING:

Ms. David-Martin provided the Commission with information about three upcoming training events held by CDRC. On March 24, 2018, CDRC will conduct training on preliminary examinations and sentencing mitigation. On April 9, 2018, CDRC will hold training on fetal alcohol spectrum disorder. A joint training for defense attorneys and prosecutors put on with the Department of Corrections is also in planning stages.

GRANTS:

SADO's has three grant-funded projects. The DNA grant project is up and running again with a newly hired DNA Project Attorney, Ayda Rezaian-Nojani. The project has expanded its focus to untested sexual assault kits found throughout the state rather than just Wayne County. The State Bar of Michigan Foundation gave SADO a grant to make its website more useful. SADO will contract with a web developer to add functionality to its website which will include the ability to complete and track training and continuing education for attorneys. The Appellate Investigation Project, funded

through a Byrne JAG grant from the state, is underway for its third year with Principal Attorney Brett DeGroff.

PROJECT REENTRY:

Marilena David-Martin stated that 22 juvenile lifer clients have been released from prison. Project Reentry helps these returning citizens with services they need post-incarceration and holds workshops to provide information and assistance. On March 21, 2018, Project Reentry will conduct a workshop that will include interactive learning around paying taxes and filing a tax return.

CASE HIGHLIGHTS:

Mr. Mittlestat provided a summary of SADO's case highlights to the Commission. Mr. Hall provided a summary of recent roster attorney successes to the Commission.

The meeting was adjourned at 1:29 p.m.

Respectfully submitted,

Wendy Dealca
SADO

APPELLATE DEFENDER COMMISSION

BY: 
Thomas W. Cranmer, Chair