

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

JUNE 16, 2021
ZOOM MEETING
12:00 P.M.

PRESENT:

COMMISSIONERS: Chair Thomas Cranmer (Bloomfield Hills, Michigan), Judith Gracey (Keego Harbor, Michigan), Doug Mains (Lansing, Michigan) Douglas Messing (Detroit, Michigan), Honorable Thomas Solka (Sault Ste Marie, Michigan) and Darryl Woods (Southfield, 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, and Commission Secretary MariaRosa Palmer.

Guests: Rachel Helton, Jackie Ouvry and Lindsay Ponce. SADO Staff: Jason Eggert, Patricia Maceroni, Angeles Meneses, Chelsea Richardson, Katherine Root, Sabrina Schneider, Erin Van Campen, and Adrienne Young. SADO Intern: Riyah Basha,

WELCOME

Mr. Sacks welcomed everyone and made introductions. He welcomed Judge Solka to the Commission who was recently appointed to replace Judge Caprathe.

KATHY SWEDLOW RESOLUTION

Mr. Hall read a resolution recognizing Kathy Swedlow's contributions as the MAACS Deputy Administrator.

Chairperson Cranmer moved to adopt the resolution. Carried.

PUBLIC COMMENT

Jackie Ouvry, on behalf of the UAW bargaining unit, reserved the right to bargain on workloads, notwithstanding the implementation of a workload study.

ADVOCATES OF THE YEAR

The Norris J. Thomas award was presented to Jackie Ouvry by Tina Olson and Lindsay Ponce by Jessica Zimbelman. The co-recipients were nominated by their SADO colleagues for their successful year each had for SADO clients.

The Barbara R. Levine award was presented to Rachel Helton by Brad Hall in recognition for her successful year as a MAACS roster attorney and trainer.

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:

Budget: The recommendations from the Governor and the Judiciary subcommittees for the House and Senate include SADO's two priorities: restoration of the general fund and continuation of the juvenile lifer funding.

Mr. Sacks also noted that the Senate recommended SADO manage funds used to reimburse government attorneys. Mr. Sacks appreciates the confidence in SADO but does not feel that this would be an appropriate role for SADO. He hopes to have more information after the conference committees.

Grants: SADO currently has two active grants. The Wrongful Prosecution Grant which allows for pre-screening of cases has hired a new investigator, Angie Jackson and an attorney, Tabitha Harris, and the Byrne JAG grant, which funds reentry efforts. Renewal for the Byrne JAG grant is expected in FY 22. The Juvenile Indigent Appeal Grant which will expand the MAACS roster capacity to include juvenile appeals is still pending.

Hiring: The mitigation specialist from the Byrne JAG grant, Monique Dake will shift to the general fund. SADO has posted an IT assistant position and has started the hiring process for two additional attorneys. These two positions will be dependent on passage of the expected FY 22 budget. Also, discussions have begun about the now vacant MAACS Deputy Administrator position. Mr. Sacks will keep the Commission apprised.

Case Statistics/Intake: Mr. Sacks reported that due to COVID, the current numbers are not indicative of a normal year, SADO is handling 43% of pending appeals, 38% overall appeals, and 50% of trials.

Anticipated Appeals Increase and Request for Stimulus Funds: Appellate assignments have been affected by COVID and SADO is anticipating an increase once the courts restart normal operations. Mr. Sacks has submitted a request to the State Budget Office for funds from the American Recovery Act. These funds are meant to fix holes created by COVID. If these funds are not available to SADO, then SADO/MAACS will have to seek creative solutions.

MAACS

Mr. Hall provided an update of the MAACS roster. MAACS currently has 159 attorneys. 20 attorneys have been reclassified to Level 2. He also reported that Ingham has joined the Regional Assignment List and in October MAACS will have a new Mid-Michigan Region with the addition of Clinton/Gratiot.

Mr. Hall reported that the Michigan Supreme Court issued an order to temporarily extend the deadline to submit a request for counsel to six months. If the court receives a request within the six months, they must appoint. He also indicated that the Court submitted a court rule amendment proposal which will ensure defendants have an attorney for prosecutor appeals. This amendment was facilitated by the work MAACS did in *People v Haywood*.

System Change: Mr. Hall discussed the SADO/MAACS merger and the impact new reforms in criminal indigent defense may have on SADO/MAACS. He outlined the successes that the merger accomplished – Regional Assignment Lists, uniform fees, and the new MAACS system for orders and vouchers and training. These reforms create an opportunity for MAACS to grow and do more. MAACS is frequently contacted by courts looking for help with other appeals and they express how beneficial it would be for MAACS to handle different types of appeals and appointments. SADO/MAACS can continue to do only what is mandated; expand the mandate; or explore whether the merger continues to be the best option. Mr. Hall and Mr. Sacks will continue to have discussions and apprise the Commission.

Juvenile Lifer Unit: Tina Olson reported on the successes of the Unit including 117 clients resentenced to a term of years. She also indicated with courts reopening, the Unit will be able to complete more work in the fall and winter. Ms. Olson again acknowledged the work of Project Reentry. Lastly, she shared that the loss of SADO client Juan Cantu. Mr. Cantu was recently resentenced to a term of years.

Training and Reentry: Ms. David-Martin shared an update of the Criminal Defense Resource Center (CDRC). She highlighted several trainings that have occurred noting the Appellate Writing Workshop that was a virtual event this year. The workshop was a success and received lots of positive feedback. She also shared information about upcoming trainings.

For reentry, Ms. David-Martin indicated that the unit is still hosting virtual workshops and shared with the Commission clients that have been recently released. The April issue of the Drum was also shared in the materials.

Court Rules and Legislation: Ms. Zimbelman reported that SADO submitted a comment to the Senate Oversight Committee regarding recommended programming in the MDOC. She also reported that following a request by the Michigan Supreme Court, SADO will be commenting in early July about a proposed court rule amendment that eliminates so called “fictional plea” agreements. Ms. Zimbelman will also be testifying before committee regarding legislation that involves providing unredacted police reports to the defense, and she updated the Commission on the Governor’s new Task Force on Juvenile Justice.

Case Highlights: Ms. Marcuz, Ms. Zimbelman and Mr. Hall provided a summary of case highlights to the Commission.

Juneteenth

Mr. Sacks would like authorization to explore recognition of Juneteenth and make a public holiday at SADO.

Commissioner Woods moved to explore recognition of Juneteenth as a public holiday at SADO, seconded by Commissioner Solka. Carried Unanimously.

Non-Attorney Award

Mr. Sacks nominated Fernando Gaitan and Frank Rodriguez to receive the non-attorney award. He recognized both for their response to any SADO crisis. He acknowledged their efforts with the move from the Penobscot Building to New Center One. He also noted Mr. Gaitan's efforts maintaining the computers for SADO's large staff and successfully shifting everyone to remote work during COVID.

Commissioner Messing moved, to approve the nominations for the Moritz-Paeth Award, seconded by Commissioner Gracey. Carried.

Executive Session for review of attorney-client information exempt from disclosure

Commissioner Woods moved to proceed to Executive Session, seconded by Commissioner Messing. Roll call vote was done. Carried. Commissioner Mains abstained.

The Commission returned from Executive Session.

Commissioner Solka moved to authorize SADO to enter a settlement regarding the Penobscot lease as outlined by attorney Larry Shoffner, seconded by Commissioner Gracey. Carried. Commissioner Mains abstained.

Workload Study

The RFP was released to vendors and SADO received two bids that met its requirements. Mr. Sacks requested authorization to award and implement the proposal from the National Center for State Courts.

Commissioner Mains moved to authorize SADO to award and implement the Proposal for an Appellate Public Defense Caseloads Standards Study from the National Center for State Courts, seconded by Commissioner Solka. Carried.

Defender Data Case Management System

Mr. Sacks requested authorization to pursue a case management system either through a vendor or an in-house service with a contract vendor.

Commissioner Messing moved to authorize SADO to purchase a Caseload Management System for up to \$180,000, seconded by Commissioner Woods. Carried.

Juvenile Lifer Unit Contracts

Mr. Sacks reported that the unit still has 49 remaining contested hearings. He requested authorization to contract a victim outreach specialist and a contract for someone to review documents.

Commissioner Gracey moved to authorize SADO contracts on victim outreach services and record collection, seconded by Commissioner Messing. Carried.

The meeting was adjourned at 3:00 p.m.

Respectfully submitted,

MariaRosa J. Palmer
SADO

APPELLATE DEFENDER COMMISSION

BY: _____
Thomas W. Cranmer, Chair