

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

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

PRESENT:

COMMISSIONERS: Chair Thomas Cranmer (Blufton, South Carolina), Judith Gracey (Keego Harbor, Michigan), Doug Mains (Lansing, Michigan) Douglas Messing (Detroit, Michigan), Thomas McNeill (Detroit, Michigan), Honorable Thomas Solka (Marquette, Michigan), and Darryl Woods (Livonia, Michigan).

OTHERS PRESENT:

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

Guests: SADO Staff: Angeles Meneses, Sofia Nelson and Jessica Newton.

Welcome

Mr. Sacks welcomed everyone and made introductions.

PUBLIC COMMENT

No public comment.

APPROVAL OF THE MINUTES FROM THE MEETING OF SEPTEMBER 15, 2021:

Commissioner Woods moved to approve the minutes of September 15, 2021, seconded by Commissioner Solka. Carried.

UPDATES:

Case Highlights: Ms. Marcuz and Ms. Zimbelman shared with the Commission introductions and brief backgrounds for each SADO direct appeal attorney. Ms. Maceroni supplied a summary of MAACS case highlights.

Juvenile Lifer Unit: In 2021 Ms. Olson reported that 132 clients were resentenced to term of years and 43 clients are still waiting for action. She also shared that 3 clients were recently able to return home. Ms. Olson also highlighted the work of Sofia Nelson and Marilena David on a high-profile resentencing in Saginaw County.

MAACS: Mr. Hall shared an update of the MAACS roster. MAACS currently has 61 level 1 (non-capital plea cases) and 51 level 2 (capital plea cases and trials) roster attorneys. MAACS also welcomed a new class of 20 attorneys this fall.

Mr. Hall shared the updated Regional Assignment List and map and reported that the pilot project with Wayne County is operational. He noted that since announcement of the project several new attorneys joined the Wayne list.

Juvenile Defense Grant: Mr. Hall reported with that MAACS received grant funding for a 3-year juvenile defense project from the Department of Justice. He shared the press release with the Commission and said that work will begin in early 2022 with posting and hiring the director, putting together an advisory board, setting standards, and holding an orientation for juvenile defense attorneys. Commissioner Solka congratulated Mr. Hall and MAACS staff. He said that there has been a huge hole in juvenile defense, and he is excited that this is now coordinated.

Training and Reentry: Ms. David shared that the MAACS Orientation, for new SADO and MAACS attorneys, and the Annual Appellate Defender Fall training were held virtually and provided approximately 36 hours of CLE. Both trainings were successful.

For reentry, Ms. David indicated that this is the third year of a grant that expanded reentry to SADO and MAACS direct appeal clients. She shared in a recent resentencing MAACS assignment; the client received a 4-year time cut with the help of a reentry plan.

Court Rules and Legislation: Jessica Zimbelman provided the Commission with an update and noted that SADO provided public testimony and comments on court rule changes. She also indicated that she testified in opposition of the Attorney General for a bill that would make obtaining discovery for defense counsel more difficult. Finally, Ms. Zimbelman reported that several SADO staff members attended the Second Look rally for sentencing reform at the Capitol.

Budget: For Fiscal Year 2021-2022, SADO received its budget request which included funding for juvenile lifer litigation and restored the general funding base. Mr. Sacks also reported that SADO has submitted a request for funding through the American Rescue Plan to help with the backlog of appeals once the trial courts resume normal business. He will update the Commission if he receives any news.

For fiscal year 2022-2023, SADO is requesting that the Juvenile Lifer Unit funding be included in the general fund and will submit a proposal for change- an increase in funding

for SADO. SADO has grown and continues to do so which allows SADO to help more clients and take on more projects. This growth requires additional staff. Mr. Sacks also made a budget request for the Wrongful Conviction Unit to be a permanent part of SADO rather than a temporary grant-funded project.

Hiring: Mr. Sacks reported that Patricia Maceroni is the new MAACS Deputy Administrator; With Byrne Jag Grant funding, Emily Swanson was hired as the new MAACS Mitigation Specialist and will start in January. In January, MAACS will post and hire the Program Director for the Juvenile Defense Grant and post and hire for the Litigation Support Attorney.

Salaries and Reclassifications: In keeping SADO in line with the Attorney General pay scale, SADO has reclassified three positions:

MAACS Office Manager is now the MAACS Assignment and Office Manager. MariaRosa Palmer currently serves as the Commission Secretary, responsible for appellate assignments, she reviews vouchers, and she will also supervise the Assignment Coordinator.

Human Resources and Office Manager is now the State Division Administrator. With merger of MAACS, Juvenile Lifer Unit, and more sophisticated Information Technology operations, Wendy Dealca oversees thirteen different employees in information technology and support. She is also responsible for human resources for the entire office and has taken on a leadership role in collective bargaining.

Finance Manager has been reclassified to the Budget and Finance Administrator – Bryan Vance has been responsible for budget development; planning; contracts; grants and purchasing, with no support or assistance.

Case Statistics/Intake: SADO is currently at 35% pending appeals and 40% pending trials. To date, SADO is at 46.2% for trial appeals and a total of 13.2% assigned appeals.

DEI Audit: Ms. David summarized the final report of SADO's Diversity, Equity Inclusion, and Belonging Audit.

MAACS Proposal to Michigan Indigent Defense Commission

Mr. Hall provided the Commission with a summary of statutory and policy questions surrounding whether state grant funding under the authority of the Michigan Indigent Defense Commission (MIDC) can and should be available to reimburse local systems for the payment of fees and expenses for private appellate counsel assigned through MAACS. Mr. Hall would like authorization for MAACS and SADO to meet with MIDC and other stakeholder groups to discuss this funding possibility. Commissioner Messing asked who the other stakeholder groups were, and Mr. Hall indicated that he has begun conversations with the Michigan Association of Counties, CDAM members on the MIDC, and with the Tom Boyd from the State Court Administrative Office.

Commissioner Solka moved based on the analysis presented in the memo to authorize MAACS and SADO to meet with MIDC and other stakeholder groups to

explore the potential for future state funding of private appellate assigned counsel representation, seconded by Commissioner Messing. Carried.

SORA Representation

The Michigan Supreme Court's decision in *People v Betts* in July 2021 held that the 2011 Sex Offenders Registration Act (SORA) was unconstitutional. For persons whose registerable offense occurred before July 1, 2011, it was unconstitutional for Michigan to require registration. SADO was contacted by the Attorney General's office to assist in identifying those with unconstitutional convictions and work to get those convictions vacated. SADO has an intern they would like to use to review the list of approximately 800 that were identified by the Attorney General's office. SADO would like authorization from the Commission to work on this project, to ensure these convictions are properly and timely vacated.

Commissioner Woods moved to authorize SADO to implement a project to accept appointment and properly represent those that were wrongfully convicted for failing to register, seconded by Commissioner Gracey. Carried.

SADO Policies – COVID 19

Mr. Sacks requested the Commission adopt updated policies in response to the changing COVID developments and CDC recommendations involving court hearings, client visits, fieldwork, and office reopening. Mr. Sacks also shared and asked the Commission to approve the new policy for staff returning to work after COVID infection or exposure.

Commissioner Messing moved to approve the updated COVID 19 policies, seconded by Commissioner Woods. Carried.

2022 Commission Meeting Dates

Mr. Sacks shared the 2022 meeting dates and informed the Commission the meetings will be in-person unless there is new legislation that allows for remote meetings. If a Commission member is unable to attend in person, the commission member can participate via zoom or phone but will be unable to vote on action items.

- March 16; June 15; September 14; and December 14

Respectfully submitted,

MariaRosa J. Palmer
SADO

APPELLATE DEFENDER COMMISSION

BY: 

Thomas W. Cranmer, Chair