

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

DECEMBER 13, 2023
SADO DETROIT
12:00 P.M.

Commissioners: Judith Gracey, Conor Dugan, JoAnn Lank, Brandy Robinson,
Honorable Thomas Solka, Janet Welch, and Darryl Woods

SADO/MAACS: Director Jonathan Sacks, Direct Appeals Managing Attorneys
Katherine Marcuz and Jessica Zimbelman, Mitigation Specialist
Supervisor Chelsea Richardson, MAACS Deputy Administrator
Patricia Maceroni, Commission Secretary MariaRosa Palmer

Guests: SADO Staff: Garrett Burton and Dominica Convertino

WELCOME

Acting Chair Judith Gracey called the meeting to order and welcomed everyone to the meeting. Jonathan Sacks introduced the attendees.

INTRODUCTION OF NEW COMMISSIONERS

Mr. Sacks welcomed and introduced the new Commissioners.

PUBLIC COMMENT

No public comments were made.

ELECTION OF CHAIR

Acting Chair Judith Gracey called for nominations for the new chair of the Appellate Defender Commission.

Commissioner Solka moved that Commissioner Gracey serve as the new chair of the Commission, seconded by Commissioner Woods. Carried.

APPROVAL OF MINUTES FROM THE MEETING ON SEPTEMBER 21, 2023

Commissioner Lank moved to approve the minutes of September 21, 2023, seconded by Commissioner Solka. Carried.

UPDATES:

Case Highlights: Katherine Marcuz and Jessica Zimbelman shared an update on the Direct Appeals Unit. They discussed the unit's work and successes in the trial court. Ms. Zimbelman invited commissioners to observe attorneys in trial court. Commissioner Welch expressed interest.

Patty Maceroni provided an update on MAACS highlights. Ms. Maceroni discussed the successes of MAACS roster attorney Joel Kershaw, Suzan Gabarra and Nick Bostic.

Juvenile Lifer Unit: Chelsea Richardson provided an update for the Juvenile Lifer Unit. The unit has 4 new mitigation specialists and 3 new attorneys. 8 of its clients have been recently resentenced to a term of years and 2 additional clients juvenile lifer clients have resenencings this week. Ms. Richardson reported that 177 juveniles are no longer serving life sentences.

Reentry: Mr. Sacks provided a few highlights for reentry. He reported that Project Reentry received the Oakland County Bar Association Leon Hubbard Community Service Award. He also shared that Dale Byrd joined Project Reentry as a reentry specialist.

MAACS: Ms. Maceroni shared an update for MAACS. The new fees went into effect October 1, 2023. Vouchers are now submitted monthly; the attorneys have adapted well. She also noted that MAACS no longer classifies attorneys by levels. MAACS now classifies attorneys by case types. 66 roster attorneys are currently classified to handle pleas, PVs, and resentencing, while 45 attorneys may accept trials and 6.500s.

Ms. Maceroni also indicated that the number of roster attorneys remains low. In October 2023 MAACS welcomed 20 new attorneys. MAACS is also receiving off-cycle applications.

Intake Update: Ms. Maceroni shared an update on appellate assignments through November 2023.

Training: Mr. Sacks reported that the Criminal Defense Resource Center had a very busy fall of training internally and externally.

Advancements: Deputy Director Marilena David established the Black Defender Mentorship Group. 11 attorneys will serve as Mentors.

Court Rules and Legislation: Ms. Zimbelman reported that SADO has submitted a comment opposing the placement of youth in solitary confinement. She also noted that the Legislature is currently adjourned.

Budget/Hiring: Mr. Sacks shared the two priorities for SADO's budget request:

- Current Services Baseline – An increase to implement the salary and wages article of the Collective Bargaining Agreement and to shift certain contractors to full-time employees.
- Proposal for Change – SADO presented a multi-year plan to implement the new National Center for State Courts (NCSC) Workload standards. During a recent study of SADO and MAACS workloads it showed that SADO attorneys worked significantly more than the current workload expectations per client. It also noted that MAACS attorneys do not have a cap and carry caseloads which greatly exceed SADO's current caseloads standards. SADO's budget request would ask for the hiring of new attorneys and associated positions at SADO. The proposal would also ask to shift two grant funded positions to the general fund.

Lastly, Mr. Sacks noted that SADO is expected to add 20 new employees this Fiscal Year. This is the largest growth for SADO. The last 3 positions have been posted and hope to be filled by early next year.

Appellate Defender Act

Mr. Sacks shared that Lieutenant Governor Gilchrist II signed the amended Appellate Defender Act on December 12, 2023, as part of the youth justice package. The act now includes representation for youth defense and codifies the state funding match for MAACS roster attorneys. It also includes the addition of 2 more commissioners. These appointments will be made by the Governor in October 2024.

Ms. Sacks again thanked Brad Hall and Josh Pease for all their work with the Act.

NAPD Evaluation

The evaluation by the NAPD was authorized by the Commission to evaluate the merger of SADO and MAACS and issue recommendations. The final report is expected early next year.

MAACS ACTION ITEMS – ASSIGNMENT DISCRETION

Ms. Maceroni summarized the memo from MAACS Administrator Bradley Hall. MAACS seeks discretion to reject certain assignments outside direct appeals, and Commission approval to explore partnerships with law school clinics, local indigent defense systems, and other stakeholders to help address the growing need for indigent appellate representation outside the mandate of the Appellate Defender Act.

Commissioner Welch moved to provide MAACS the discretion to reject certain assignments, and the approval to explore new partnerships to provide indigent appellate representation outside direct appeals, seconded by Commissioner Dugan. Carried.

EMPLOYEE HANDBOOK POLICY – Amendments to the SADO Disciplinary/Action Policy

The proposed amendments to SADO's disciplinary action policy clarify current practice that our progressive disciplinary policy applies to behavior concerns, performance issues, and violations of policies and procedures. The amendments also update the policy to reflect that only non-union employees are "at will" employees.

Commissioner Woods moved to adopt the amendments to the SADO Disciplinary Action Policy, seconded by Commissioner Solka. Carried.

ADDITIONAL SPENDING REQUESTS

Mr. Sacks stated that the Commission is required to authorize all non-standard spending requests over \$10,000. Attorney Ken Mogill represents SADO on the matter involving the Eaton County court order that the Commission discussed in closed session at the September meeting. The insurance carrier is expected to pay for a portion of his representation, the total cost for his representation has exceeded this threshold amount. SADO would like authorization to pay Mr. Mogill \$11,442.50 for his services.

Commissioner Solka moved to authorize SADO to spend up to \$11,442.50 for attorney Ken Mogill, seconded by Commissioner Dugan. Carried.

2024 MEETING DATES

- March 20, 2024
- June 12, 2024
- September 18, 2024
- December 18, 2024


The meeting adjourned at 1:42 p.m.

Respectfully submitted,

MariaRosa J. Palmer
SADO

APPELLATE DEFENDER COMMISSION

BY: _____


Judith Gracey, Chair