

**APPELLATE DEFENDER COMMISSION MEETING  
MINUTES**

MARCH 20, 2024  
SADO DETROIT  
12:00 P.M.

Commissioners: Chair Judith Gracey, Conor Dugan, Honorable Thomas Solka, and Darryl Woods

SADO/MAACS: Director Jonathan Sacks, Deputy Director Marilena David, Direct Appeals Managing Attorneys Katherine Marcuz and Jessica Zimbelman, Juvenile Lifer Unit Managing Attorney Tina Olson, Juvenile Lifer Unit Mitigation Specialist Supervisor Chelsea Richardson, MAACS Administrator Brad Hall, and Commission Secretary MariaRosa Palmer

Guests: SADO Staff: Oliver Edmund, Stephanie Farkas, and Jacqueline Ouvry.

**WELCOME**

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

**PUBLIC COMMENT**

No Comment.

**APPROVAL OF MINUTES FROM THE MEETING ON DECEMBER 13, 2023**

*Commissioner Solka moved to approve the minutes of December 13, 2023, with the correction, seconded by Commissioner Dugan. Carried.*

## UPDATES:

Case Highlights: Katherine Marcuz and Jessica Zimbelman highlighted that successes at SADO are because of great teamwork. They spoke about successes in the exoneration of Crystal Mulherin and a sentence reduction in *People v Parkins*.

MAACS Litigation and Support Counsel, Stephanie Farkas shared several resentencing successes from roster attorneys with the assistance of MAACS Mitigation Specialist, Emily Swanson. She also noted several successes in the Court of Appeals which included a published opinion for roster attorney Joshua Hadley on the Good Samaritan law.

Chair Judith Gracey and the Commission acknowledged and congratulated the work of both SADO and MAACS attorneys. It was noted that there are not always a lot of wins, so when there is a win, we need to celebrate.

MAACS: Mr. Hall shared an update for MAACS. MAACS currently has 120 active attorneys and is continuing to actively recruit new attorneys. He noted that Ms. Farkas is working with attorneys on their first cases.

Mr. Hall also summarized the new fee policy and reimbursement process and shared that the process is going well.

Commissioner Woods asked about the morale of the MAACS staff and roster attorneys. Mr. Hall responded that he believes that morale is good.

Juvenile Lifer Unit: Tina Olson reported that with the recent decision in *Poole* the unit will have an additional 170 cases. The clients have been identified and mailings were sent out with the request for counsel forms. Mr. Sacks has been instrumental in communicating with the trial courts and any client with a SADO conflict will be handled by a local public defender. SADO has also gone to prisons to speak with the affected clients about what to expect with the process. Ms. Olson acknowledged all the work the team has done. She shared that morale is good. Everyone may be a little scared because of the large caseload but excited about getting clients resentenced.

Ms. Olson also shared the positive outcome in Dexter Tolliver. Tolliver is expected to be released on April 14. Commissioner Woods applauded SADO's continuous effort to fight for their clients. He also asked about the timeframe for *Poole* cases and was interested in a county breakdown of the *Poole* cases.

Ms. David shared a thank you card that was sent to Ms. Olson and SADO expressing their gratitude for their work in *Poole*.

Reentry: Ms. David provided a brief recap of how reentry began at SADO in 2016 with student volunteers. In 2018, SADO received grant funds through a Byrne/JAG grant which extended reentry to MAACS clients. She also shared a resentencing success which included a reentry plan written by Marcus Williams. Ms. David acknowledged the team, which includes Anna Kohn, Marcus Williams and Lorenzo Harrell. She concluded by indicating that every returning client has reentry support which includes access to workshops and support.

Training: Ms. Swedlow provided an update for Criminal Defense Resource Center (CDRC). She shared that 8 books have been published in 2023 and 2024. She also shared upcoming training information.

Ms. Swedlow also indicated that CDRC held training for prison librarians via Zoom, and which led to an invitation to do an in-person presentation at a prison.

Lastly, Ms. Swedlow shared information about a conference for investigators which will be held in September 2025. The MIDC has agreed to underwrite so now the CDRC has sent out a survey to offices and systems around the state asking what they would like discussed and how many people would be sent to the conference.

Ms. David thanked Ms. Swedlow for all her hard work at CDRC and indicated that Ms. Swedlow has accomplished a lot since her return to SADO.

Ms. Martin shared information regarding the Youth Defender training put together by Josh Pease.

Ms. Martin also discussed the 3-day Appellate Writing Workshop. 18 MAACS and SADO attorneys have registered to attend. She thanked her teammates Brad Hall and Kathy Swedlow. She also noted the 5-day trial skills training presented by Gideon's Promise. 15 SADO attorneys will attend this training at SADO Detroit beginning on May 13. She thanked the Commission for approving the funding. Ms. David also shared that SADO was sending some of their managers to Traverse City for NAPD training on public defender wellness and sustainability.

Advancements: Ms. David shared that SADO currently has 79 employees. The Collective Bargaining Unit Agreement that was signed last year has provided more flexibility with working out of the office. SADO has also implemented a mandatory in-person staff meeting once a month. She also indicated that SADO is working on formalizing and reengaging several SADO committees.

Ms. Martin also notified the Commission about Kathy Swedlow's recent appointment to the Attorney Grievance Commission.

National Center for State Courts (NCSC) Workload Study: Katherine Marcuz shared a summary of the final report and recommendation provided by the NCSC. It was recommended that the yearly weighted caseload for an attorney should be 14. The current SADO weighted caseload is 26, with an interim adjustment by the Appellate Defender Commission to 21. Implementation of this recommendation will be a multiyear process. The report also indicated that SADO should reevaluate workloads again in five years.

Budget/Hiring: Mr. Sacks thanked the SADO and MAACS teams for all their hard work with navigating the current workload pressures. He discussed and shared the budget request for FY 2024-2025. The major request includes funding to help address the recommendation of the workload study, grow SADO, and reduce pressure on the MAACS roster.

- Funding to grow SADO Direct Appeals,
- Wage increases in the Collective Bargaining Agreement,
- Additional staff for the CDRC through transfer of sub-contractors to full-time SADO positions,
- Convert the grant funded Youth Defense Position to a permanent position due to the new mandate for youth representation.
- Special Attorney to review MAACS billings.

Mr. Sacks shared the recent hires at SADO. Elena Crowley has been hired as the new accounting assistant, Daniel Hamadeh a new programmer, and Brett Degroff returned to SADO as an assistant defender.

SADO has an attorney vacancy and will post for that position soon. SADO also expects to add two more additional staff – a youth defense attorney and a new CDRC attorney with a focus on youth defense.

Intake: Mr. Sacks described the current intake at SADO/MAACS. He indicated that MAACS has seen the first significant growth after the new rates were implemented. SADO workloads are currently at or above the 21.4 weighted caseloads. Only 9 attorneys handling a caseload. He shared that SADO had to shut down intake completely in February and March. He did note that MAACS would contact SADO if there were any emergencies and SADO would try to accommodate.

Mr. Sacks also shared the caseload pressures on the MAACS side. He indicated that an average of 50 cases per month have gone through the list without finding an attorney. He recognized the MAACS team who reach out to attorneys to get cases assigned. Mr. Sacks indicated that the road map needed to address the intake pressures is in place, but it will take some time before relief is seen.

Mr. Hall shared the data on appellate assignments through February 2024.

Court Rules and Legislation: Josh Pease worked with the Michigan Supreme Court Administrative Office on proposed rules on advice for appellate rights for youth appeals. The proposals have been published and are expected to be in place before October 1<sup>st</sup>. Mr. Sacks shared a proposal that SADO was going to submit probation violation appeals.

Ms. Zimbelman provided an update on proposed rules changes. She also shared that she testified before the House Criminal Justice Committee about expanding the post-conviction DNA testing statute to cases where the person plead guilty. Finally, SADO is a member of the Second Look Coalition. A hearing was held on that proposed legislation that would allow anyone to petition for a resentencing hearing after serving 10 years.

### **Action Items**

#### **MAACS Voucher/Finance Review**

Mr. Hall provided the Commission with a summary on the MAACS fee policy and voucher process. Mr. Hall, Mr. Sacks and Oliver Edmund met with leaders of model assigned counsel systems in Colorado and Massachusetts to discuss their review policy and procedures of their attorney billings. MAACS is requesting to establish a policy for reviewing attorney vouchers for accurate and compliant billing. The proposal allows for both standard and random reviews of attorney time and expenses where the attorney will be asked to provide additional information to MAACS.

***Commissioner Solka moved to adopt the amended MAACS Attorney Fee and Reimbursement Policy, seconded by Commissioner Woods. Carried.***

#### **Employee Handbook Policy – Fieldwork Policy**

The proposed new Fieldwork Policy sets out policies for SADO employees who conduct fieldwork, including meetings, interviews, or investigations in public places or in private residential sittings.

***Commissioner Woods moved to adopt the Fieldwork Policy, seconded by Commissioner Dugan. Carried.***

#### **Commission Policy – Media**

Recent high profile SADO cases require a policy to ensure Commissioners and SADO/MAACS staff have a unified message with the media. If Appellate Defender Commissioners are contacted by members of the media to discuss SADO or MAACS

issues, policies, or clients, the contact should be referred to either the SADO director or the Appellate Defender Commission Chair for further follow-up.

Commissioner Dugan moved to adopt a new media policy for the Appellate Defender Commission, seconded by Commissioner Woods. Carried.

### **ADDITIONAL SPENDING REQUESTS**

Mr. Sacks shared that a former SADO employee contacted SADO because he never received his annual leave payout when he left SADO. Former SADO employee Ronald Steinberg concluded employment at SADO in October 2001 after a medical leave of absence. SADO's Office Administrator Wendy Dealca reviewed the request and recommends paying Mr. Steinberg his annual leave balance of \$10,024.30 which requires Commission approval.

*Commissioner Woods moved to authorize SADO to spend \$10,024.30 for former employee Ronald Steinberg's annual leave payout, seconded by Commissioner Dugan. Carried.*

### **Nominations for Barbara Levine, Norris Thomas, and Amanda Smith Awards**

SADO nominated Maya Menlo for the Norris Thomas Award for outstanding SADO attorney.

MAACS nominated Suzan Gabbara for the Barbara Levine Award for outstanding MAACS Roster Attorney.

Mr. Hall nominated MariaRosa J. Palmer for the Amanda Smith award for outstanding Core MAACS or SADO staffer.

*Commissioner Woods moved to accept the nominations for the Barbara Levine, Norris Thomas, and Amanda Smith awards, seconded by Commissioner Dugan.*

### **Anticipated Closed Session**

The agenda item to discuss Elections and Potential Judicial Disqualification will be tabled until the June meeting.

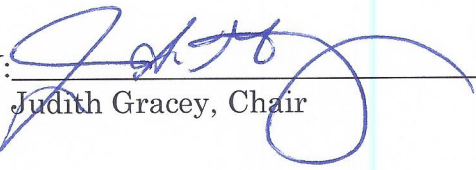
The meeting adjourned at 2:47 p.m.

Respectfully submitted,

MariaRosa J. Palmer  
SADO

APPELLATE DEFENDER COMMISSION

BY: \_\_\_\_\_

  
Judith Gracey, Chair