

**APPELLATE DEFENDER COMMISSION MEETING
MINUTES**

JUNE 12, 2024
SADO DETROIT
12:00 P.M.

Commissioners: Chair Judith Gracey, Conor Dugan, Honorable Thomas Solka,
and Janet Welch.

Via Zoom: Darryl Woods

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

Guests: SADO Staff: Anna Ahronheim, Gabrielle Barber, Garret Burton,
Oliver Edmund, Stephanie Farkas, Taylor Fellows, Rita Jajjoka,
Maya Menlo, Abrial Neely, Jessica Newton, Kierston Nunn,
Allison Swain, Mackenna Thayer, Heather Waara

Other: Suzan Gabbara

Via Zoom: SADO Staff: Steven Helton, Mike Waldo, Brett
DeGroff, and Wendy Dealca

WELCOME

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

PUBLIC COMMENT

No Comment.

**PRESENTATION OF THE APPELLATE DEFENDER COMMISSION
AWARDS**

Jessica Zimbelman presented the Norris Thomas award to Maya Menlo. Maya Menlo
was recognized for her excellence in legal work, leadership, dedication to her clients

and tenacious advocacy. Ms. Menlo was described by her colleagues as magical, brilliant, and compassionate.

Brad Hall presented the Barbara Levine award to Suzana Gabarra. Ms. Gabarra was recognized for her dedication to her clients, taking on tough cases and for being a dependable roster attorney.

Brad Hall presented the Amanda Smith award to MariaRosa Palmer. MariaRosa was recognized for her dedication, excellence, and problem-solving over decades at MAACS.

APPROVAL OF MINUTES FROM THE MEETING ON MARCH 20, 2024

Commissioner Solka moved to approve the minutes of March 20, 2024, with the corrections, seconded by Commissioner Dugan. Carried.

UPDATES:

Case Highlights: Jessica Zimbelman provided the case highlights for SADO attorneys and spoke specifically about the time cuts SADO attorneys obtained for their clients. Ms. Zimbelman praised the work of the SADO mitigation specialists and highlighted the work of Monique Dake. The work from mitigation specialists is instrumental in obtaining these sentencing reductions.

Patricia Maceroni provided the case highlights for MAACS attorneys. Ms. Maceroni highlighted the roster work in the Michigan Supreme Court. She indicated that six orders were granted and noted that this work is done voluntarily by the roster and in some cases pro bono since the work is not included by the order of appointment. More MAACS attorneys are filing in the Michigan Supreme Court showing a commitment to their clients and work.

MAACS: Ms. Maceroni shared an update for MAACS. MAACS currently has 123 active attorneys and is continuing to actively recruit new attorneys. Ms. Maceroni indicated that the incoming fall class of attorneys were high-quality experienced attorneys with strong writing skills. She noted that a high percentage of those accepted completed the training and are now accepting cases. Ms. Maceroni also reported that MAACS received twenty off-cycle applications and ten were accepted. These ten attorneys are doing their own training by watching the orientation videos and must work with MAACS Litigation and Support for their first several cases. Mr. Hall also shared that a new mitigation specialist will join MAACS.

Ms. Maceroni announced that MAACS has an intern for summer, Natalie Rosenblatt. Natalie Rosenblatt is in their second year of law school.

Mr. Hall reported that MAACS hired a second grant-fund mitigation specialist, who will be based out of the Lansing office. As roster attorneys are getting more familiar with the mitigation specialist and their report, there is plenty of work for two MAACS Mitigation Specialists.

Mr. Hall also provided an update on the voucher and reimbursement process. He discussed the transition to quarterly payments for roster attorneys which received a few complaints from attorneys but overall, all stakeholders are pleased with the new system. To date, \$675,000 has been reimbursed to counties.

Mr. Hall updated the Commission on the Youth Defense Project. Josh Pease continues to do monthly training. He is also recruiting and building a roster of attorneys willing to accept youth appeals.

Mr. Hall discussed the MAACS Minimum standards and noted that the Standards do not include youth appeals. Mr. Hall indicated that it is time to revisit these standards and rewrite them to reflect the values of SADO/MAACS and the new Appellate Defender Act which goes into effect on October 1, 2024. The new Act also includes the removal of the provision which states that the appointment of appellate counsel must be made by the trial court to SADO or the approved roster. The language "by the trial court" will be removed. With this removal, it is an opportunity for discussions of substantial changes to the process of the appointment of appellate counsel, and to think about who will be signing orders of appointment.

Juvenile Lifer Unit: Ms. Olson reported that the SADO Juvenile Lifer Unit has been appointed to over 100 new clients who are 18 and awaiting resentencing. Ms. Olson also shared that the Unit still has a few cases awaiting Miller hearings, but these are more complex cases. She also commended Jackie Ouvry and her team for their work in the Ethan Crumbley matter.

Commissioner Woods also commended Ms. Olson and SADO for their courageous leadership. Their work speaks to the morals of SADO to step up and represent clients in these tough cases.

Training: Ms. Swedlow provided an update for Criminal Defense Resource Center. She shared that her unit has four different training session series which include training for attorneys, investigators, mitigation specialists, and youth defense. Ms. Swedlow also noted that the training has drawn a national audience. The trainings have had participants from Texas, New Mexico, and California,

Ms. Swedlow also shared information on other training which included *People v Poole* training, management training, and proofreading training. She also held a training session at the Kinross Correctional Facility on the restoration of appellate rights.

Lastly, Ms. Swedlow informed the Commission that there will be new books on pleas, the MDOC, and Evidence.

Mr. Sacks thanked the leadership team and staff for their work in all the accomplishments taking place at SADO.

Budget/Hiring: Mr. Sacks reported that SADO's budget request included 23 new positions -- 8 Caseload Attorneys, 1 Managing Attorney, 3 Investigators, 3 Mitigation Specialists, 4 Paralegals, 2 Reentry, 1 Case Coordinator and 1 IT position. The request also included the implementation of the Collective Bargaining Agreement which addresses the new wages for SADO staff for salary parity with the Executive Branch. The attorneys will see a shortening of steps for pay increases. These increases will take effect on October 1, 2024. The budget request also shifts the MAACS Youth Defense position to a permanent position and 3 Criminal Defense Resource contract positions to full time employees.

A late supplement request was added to include a MAACS review attorney. This position will review the payment requests from Roster Attorneys before submitting to the courts for approval and payment.

SADO's budget request was included in the recommendations by the Executive branch and the House and Senate Judiciary Subcommittee on Appropriation. The final step is the Conference Committee Report where the House and Senate make their final decisions.

For hiring, Mr. Sacks reported that SADO interviewed attorneys to replace a SADO attorney who recently returned to Georgia. Mr. Sacks indicated that in anticipation of the budget request, he felt comfortable making 4 offers to attorneys to join SADO. Two attorneys have already accepted and are waiting to hear from the last two. A new SADO attorney will start in August who was a former U.S. Supreme Court clerk.

Mr. Sacks also noted the addition of the new MAACS Mitigation Specialist. SADO has a new paralegal who was an employee who shifted from MAACS. MAACS will hire a replacement for that position. SADO is currently interviewing for the SADO Youth Defense position.

Lastly, Mr. Sacks spoke about the office expansion at SADO Detroit. SADO is working with a leasing agent to negotiate a third lease which will add more space to the Detroit to accommodate SADO's growth.

Intake: Mr. Sacks described the current intake at SADO/MAACS. He indicated that SADO is in a tough transition period. SADO had to shut down intake for a couple of months due to staff leave time and retirements, however he reported that the SADO

intake is now open. Ms. Zimbelman also noted that while the intake is open, there are still SADO attorneys who are above the interim caseload weight.

Mr. Hall shared the data on appellate assignments through June 2024. He noted that there were not a lot of changes in the yearly report but in the monthly report noticed an increase in assignments due to *Poole* assignments and trial appeals in Wayne.

Court Rules and Legislation: Mr. Sacks and Ms. Zimbelman provided an update on proposed rules changes. Mr. Sacks reported that the Michigan Supreme Court adopted the amendments to the advice of appellate rights for youth defense. He credited Josh Pease for his work on this change.

Ms. Zimbelman discussed the proposed rule which will allow counsel representing individuals on parole appeals access to the full record. She noted that Maya Menlo drafted the proposal and submitted it to the Michigan Supreme Court administrative counsel and was recently published for comment.

Action Items

Potential MAACS attorney reimbursement surplus and work project

Mr. Sacks discussed a possible surplus in the new \$3.2 million State of Michigan MAACS roster fund to partially reimburse counties for attorney fees. He noted that the \$3.2 million is dedicated and can only be used for reimbursements and if there is a surplus, SADO did not want to lose the money. A solution would be a “work project.” This is a State of Michigan budget mechanism to use leftover funding from one fiscal year in the following FY for a specified purpose. SADO and MAACS are seeking authorization to pursue a work project in the event of a surplus to apply to next Fiscal Year 2025 reimbursements.

Commissioner Solka moved to authorize SADO and MAACS to set up a work project to use any surplus funding in the MAACS attorney fee fund for future fiscal year reimbursement, seconded by Commissioner Dugan. Carried.

Employee Handbook Policies

Mr. Sacks discussed the growth at SADO and the need for additional policies and planning. He also noted that the policies were reviewed by the UAW and offered feedback. The policies are as follows:

- Dress Code
- Drug-Free Workplace and Prohibited Substances
- Relationships in the Workplace
- Room Sharing

- Amendment to the Classification and Compensation for attorneys to receive salary step increases at the anniversary of employment rather than anniversary of promotion to a full caseload.

The first four policies are linked to employee growth but the last policy arose because of an exit interview with a newer attorney who moved to Georgia. She stated that new attorneys do not receive their first step increase until they are promoted to their first caseload. However, other employees receive their step increase on the anniversary hire date. This process may lead to more internal competition in obtaining their promotion to receiving their own caseloads which may not help morale.

Commissioner Welch moved to adopt the four new policies and one amended policy with proofreading corrections, seconded by Commissioner Dugan. Carried.

ADDITIONAL SPENDING REQUESTS

Mr. Sacks stated that the Appellate Defender Commission is required to authorize all non-standard spending requests over \$10,000. He discussed the Michigan Justice Training fund and how SADO has received grants that were used by Project Reentry. He also shared that there are available funds under their Rapid Response fund. This is a one-time \$10,000 grant. Mr. Sacks would like to produce two recruiting videos – one for SADO attorney hiring and one for MAACS roster recruitment. Based on a recommendation from the ACLU, SADO approached Jon Groat from Sway Films. Mr. Groat submitted a budget of \$11,160 for the two videos. The Michigan Justice fund would cover \$10,000 as part of a Rapid Response grant, and SADO the remaining \$1,160. Mr. Sacks is seeking authorization to accept the grant and to retain Sway Films to produce two videos.

Commissioner moved Dugan to authorize SADO to accept the Michigan Justice Fund grant and retain Sway Films for the production of two recruiting videos at a cost of \$11,160., seconded by Commissioner Welch. Carried.

ANNUAL REPORT

Mr. Sacks requested the Commission approve and publish the 2023 SADO/MAACS annual report with nominal edits as needed.

Commissioner Solka moved to approve and publish the annual report with nominal edits, as needed, seconded by Commissioner Dugan. Carried.

Closed Session

Chairperson Gracey indicated that there is no quorum for a closed session. The agenda item to discuss Elections and Potential Judicial Disqualification will be tabled until the September meeting.

The meeting adjourned at 2:47 p.m.

Respectfully submitted,

MariaRosa J. Palmer
SADO

APPELLATE DEFENDER COMMISSION

BY: _____
Judith Gracey, Chair

DRAFT