

MINUTES

APPELLATE DEFENDER COMMISSION MEETING

**SEPTEMBER 16, 2015
DETROIT, SADO
12:00 P.M.**

PRESENT:

**COMMISSIONERS: CHAIRPERSON THOMAS CRANMER, THOMAS ADAMS,
JUDGE CAPRATHE (via phone), DOUGLAS MESSING,
THOMAS MCNEILL, AND JUDITH GRACEY**

OTHERS PRESENT:

**SADO: DIRECTOR DAWN VAN HOEK, DEPUTY DIRECTOR MICHAEL
MITTLESTAT, CDRC ADMINISTRATOR MARILENA DAVID-MARTIN,
FISCAL MANAGER BRYAN VANCE, AND HUMAN RESOURCES
MANAGER WENDY DEALCA**

**MAACS: ADMINISTRATOR BRAD HALL AND OFFICE MANAGER MARIA
ROSA JUAREZ PALMER**

GUESTS: JOHN ZEVALKING AND ALONA SHARON

COMMISSION AGENDA

WELCOME AND INTRODUCTIONS

Chairperson Cranmer opened the meeting commending former Chairperson Nussbaumer for his excellent leadership on the Commission and congratulating him on his new job at Indiana Tech Law School. He added that Commissioner Nussbaumer would be leaving the Commission in the near future. Ms. Van Hoek briefly introduced John Zevalking and Alona Sharon, two contract attorneys hired to work for MAACS on the roster attorney performance review project.

APPROVAL OF THE MINUTES FROM THE MEETING OF JUNE 17, 2015

Commissioner Messing moved, seconded by Commissioner McNeill, to approve the Minutes of the June 17, 2015 meeting as amended. Carried.

ADC MEMBERSHIP EXPIRING TERMS

Chairperson Cranmer, Commissioner Gracey, and Commissioner McNeill have been reappointed to the Commission for another four years.

ADC MEETING LOCATIONS FOR 2015

Chairperson Cranmer announced the upcoming meeting dates for the remainder of 2015 and for 2016 as follows:

December 16, 2015 (Detroit)
March 16, 2016 (Detroit)
June 15, 2016 (Detroit)
September 21, 2016 (Lansing)
December 14, 2016 (Detroit)

SADO & MAACS CONSOLIDATION

Ms. Van Hoek reported that SADO and MAACS will have a merged budget moving forward, starting with fiscal year 2016. She also provided a one-page summary on the benefits of merging SADO and MAACS.

Ms. Van Hoek stated that the proposed administrative order due October 1, 2016 relating to the consolidation of the two offices and revisions to the original order regarding the operation of the appellate assigned counsel system was placed on hold. Instead, at the request of the Commission, the Court authorized MAACS to implement a pilot project for one year to assess the feasibility, costs, and benefits associated with structural reforms currently under consideration for permanent statewide implementation. Afterwards, the Commission will propose to the Court a new administrative order regarding the operations of the assigned counsel system. The new order is Administrative Order 2015-9, released on September 16, 2016. The order was provided to commissioners.

SADO AGENDA

BUDGET

Ms. Van Hoek reported that SADO and MAACS had more money left over at the end of this fiscal year than usual due to the consolidation and staff turnover. The money was encumbered into next year with service contracts to complete some necessary projects relating to the Criminal Defense Resource Center's books and website, the MAACS performance review of roster attorneys, and to backfill the social worker position during a temporary leave of absence.

For fiscal year 2017, Ms. Van Hoek will request funding to add 8 lawyers and legal support positions to equip the office with the staffing level needed to handle 40% of the statewide appeals. With more attorneys, SADO will be able to handle more cases from the circuits where there aren't enough roster attorneys at each level to handle the work. The Commission unanimously supported the budget strategy of seeking funding to handle 40% of the appeals for fiscal year 2017.

Ms. Van Hoek reported that she submitted a supplemental budget request to replace training money that was provided to CDRC by MCOLES, but was eliminated in 2016. The prosecutors were cut too, but as a last minute decision, their funding was restored by the legislature from the general fund. SADO is asking for similar treatment.

Ms. Van Hoek added that she continues to strive for salary and benefits parity with the Attorney General's Office. SADO implemented a 2% increase in 2015, bringing SADO staff salaries up to 89% of the Attorney General Office's staff. As part of the plan for parity, SADO would also like to pay bar dues for its lawyers, following the Attorney General Office's practice. Bar dues are not paid across-the-board in government. The state courts do not pay bar dues for their attorneys, except for some of the justices. However, the Attorney General Office pays them for its lawyers, as does the Wayne County Prosecutor's Office. The cost to SADO is very modest, approximately \$7,000. The Commission unanimously supported the concept of SADO paying bar dues for its attorneys to achieve parity with the Attorney General Office's staff, leaving to management the discretion on when and how to proceed with implementation.

Lastly, Ms. Van Hoek added that SADO will move forward with the Westlaw deal to offer Westlaw services to MAACS attorneys.

HIRING AT SADO:

Two new staff attorneys started with SADO on September 8, 2015. They are expected to receive caseloads in about six months. SADO also plans to hire a new investigator in fiscal year 2016.

CAPACITY AND FORMULA

Mr. Mittlestat reported that total appeals statewide in 2015 will likely be higher than the year before. Despite the increase, and SADO being down two attorneys for much of the year, SADO still expects to handle 25% of the appeals.

GRANTS

Ms. Van Hoek reported that Detroit is not the only city with abandoned sexual assault kits. She and Mr. Mittlestat intend to meet with a contact at Wayne County regarding the issue.

UM RESEARCH PROJECT ON SADO

Jonah Siegel, a researcher with the University of Michigan, completed a research project examining the legal representation practices at SADO. Ms. Van Hoek provided Mr. Siegel's report to the Commission.

CASE HIGHLIGHTS

Mr. Mittlestat provided a summary of SADO case highlights to the Commission.

MAACS AGENDA

GRANTS

SADO expects to hear whether or not it receives a Byrne/JAG grant award for an investigator project for MAACS attorneys by the end of September.

PERFORMANCE REVIEW OF ROSTER ATTORNEYS

Mr. Hall reported that the entire roster was up for review as he came into his position. He hired John Zevalking, a former Cooley writing professor and Supreme Court clerk, as a contractor to help complete the reviews. With year-end money, MAACS was able to hire a second contractor who is a state appellate lawyer, Alona Sharon, to assist with the performance reviews. Together, they expect to complete the review of the entire roster over the next six months.

OPENING OF ROSTER TO NEW ATTORNEYS / ADDITION OF APPLICANTS AT LEVEL II

This year, MAACS has coupled the Annual Fall Training with New Roster Attorney Orientation, occurring October 14th and 15th.

Mr. Hall reported that he received applications from some attorneys to join the roster at Levels II and III, although they did not technically meet the requirements. Mr. Hall identified five applicants that showed great talent and commitment to indigent defense and presented their application materials as well as a summary of his recommendations to the Commission.

Commissioner McNeill moved, seconded by Commissioner Adams, to approve the addition of Jeffrey Rupp, F. Mark Hugger, Sean Maltbie, Martha Soltis, and Brandon Hultink to the roster at Level II. Carried.

FEES/PILOT PROJECT

Mr. Hall reported that he intends to implement the one-year pilot project as early as October 1, 2015 and provided an implementation plan to the Commission. He added that there are about 17 circuits who have agreed to participate in the pilot project.

WAYNE CIRCUIT COURT APPOINTMENT PROCESS

Mr. Hall reported that, at the initiation of MAACS and SADO, Wayne County Circuit Court has undertaken a process to reform the manner in which appellate assignments are made and transcripts and files are delivered to roster attorneys. He provided the Commission with a document summarizing the problem, concept, and reform goals.

CASE HIGHLIGHTS

Mr. Hall provided a summary of recent roster attorney successes to the Commission.

The meeting was adjourned at 2:10 p.m.

Respectfully submitted,
Wendy Schaub
SADO

APPELLATE DEFENDER COMMISSION

BY: 
Thomas Cranmer, Interim Chair