

**Assessment of the  
Michigan State Appellate Defender  
Office and Michigan Appellate  
Assigned Counsel System**

November 2024



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## Executive Summary

In 2014, the Michigan State Appellate Defender Office (SADO) merged with the Michigan Appellate Assigned Counsel System (MAACS), creating a joint agency (referred to as “SADO/MAACS” in this report). In 2022, SADO Director Jonathan Sacks requested an assessment from the National Association for Public Defense (NAPD). NAPD brought together a team of national experts to assess SADO/MAACS operations in five areas. To complete this report, NAPD staff reviewed the assessment team’s findings and additional information from SADO/MAACS staff.

Overall, the assessment found that the merger has been beneficial and that SADO/MAACS uses many model practices for public defender and managed assigned counsel systems. Further improvements are needed, however, to improve agency cohesion and provide high-quality representation for all clients. In brief, the assessments’ questions and findings are:

1. Are there proper conflict controls in place for administration, governance, assignments, caseloads, resources, and other organizational activities? Should new processes, controls, or internal governance be implemented?

**Overall, proper conflict controls exist to protect clients from case-related conflicts of interest.** On the other hand, protections against conflicts of interest also limit the ability of SADO and MAACS to share resources. This seems to have contributed to some resource imbalances and internal tensions. First, there are significantly fewer in-house staff available to MAACS roster attorneys than to SADO staff attorneys, despite MAACS handling more of the overall workload. Second, while SADO has workload limits and some discretion over its workload, MAACS does not have workload limits nor the same degree of control. MAACS’ clients are therefore at greater risk of being randomly assigned an attorney with too little support and time to represent them effectively. Moving forward, there should be consistent workload limits and assignment procedures for SADO and MAACS, and the staff and resources for each division to support that workload. Leadership should prioritize creating a shared culture of excellence for both SADO and MAACS.

2. How do the benefits of a consolidated agency such as shared resources, efficiencies, and expertise compare with the risks of case-related and resource conflicts?

**The benefits of a consolidated system plainly outweigh the risks of case-related conflicts as stakeholders were specifically asked and this assessment identified none in the past 10 years.** While this assessment identified imbalances in the training, support, and workload of the two agencies, it concluded that maintaining SADO/MAACS consolidation while addressing these issues is in the best interests of Michigan’s indigent criminal appellants and will improve the communication, collaboration, and overall relationship between SADO and MAACS.

3. Should the Appellate Defender Commission (Commission) consider separating SADO and MAACS again, either completely or with more independence for each agency under the same umbrella? Should there be shifts in the organizational chart?

**On balance, this assessment determined that dissolution of the merger is clearly not in the best interests of the clients served by SADO and MAACS.** The Commission should not consider separating SADO and MAACS. In addition to pursuing efficiencies in administrative functions, the principal goal of the merger was improving the overall quality of appellate representation in Michigan. All evidence indicates that consolidation has promoted and advanced that goal. This report finds that not only should there be no decoupling, but SADO and MAACS should lean further into their collaboration to maximize the effectiveness of the system as a whole. Without leadership that is focused on the principal goal of the merged system, the mission of both SADO and MAACS to provide high quality appellate representation will never be fully realized. This assessment also recommends changes to the organizational chart that would expand the proven benefits of the SADO/MAACS merger. The assessment team views this as a fundamental step in achieving the Commission’s overarching goal of improving the quality of representation for clients in the MAACS system and for improved collaboration between SADO staff and MAACS staff and contractors.

4. Are there model systems to emulate in the federal system or in other states where both a public defender office and an assigned counsel system operate in tandem?

**The SADO/MAACS system is designed to provide high-quality representation to its clients. To a large degree, it already emulates other well-performing state and federal systems of assigned counsel.** Some features of other systems that could be incorporated to improve the current SADO/MAACS system include: a more equitable case assignment process and workload caps; a more comprehensive review of MAACS attorneys’ workloads; increased staffing at MAACS, including additional Litigation Support Counsel; and more shared resources, to the extent allowed by conflict rules.

5. Taken as a whole, what is the best system and process for the people represented by SADO and MAACS? What other connected recommendations are there for SADO and MAACS?

**This assessment finds that, with some modifications, the existing SADO/MAACS system best serves the client community.** The system’s strengths include being a statewide, single system with some shared access to training and systemic benefits, such as video access to clients, Westlaw access, and IT. Recently, SADO/MAACS has achieved uniform attorneys’ fees across Michigan’s counties; rate increases for MAACS attorneys; and mitigation services for MAACS attorneys through a recurring grant. These improvements have allowed the MAACS roster to add attorneys, which is exceptional considering national recruitment challenges. These are important steps in reducing workload burdens and improving the quality of representation provided to clients.

Additional findings and recommendations are included in the report.

NAPD thanks the assessment team and its partners in Michigan for their ongoing work to improve public defense.

## Methodology

The assessment team<sup>1</sup> conducted research for this report between January 2023 and September 2024. The team reviewed written materials (including national standards, agency rules and procedures, and external reports<sup>2</sup>) and conducted nearly two dozen interviews with a diverse group of invested parties, including:

- The Director of SADO and MAACS
- Multiple members of the SADO Leadership Team
- Multiple members of the MAACS Leadership Team
- Member of the Michigan Appellate Defender Commission
- Members of the Judiciary
- Support staff in both the SADO and MAACS systems
- Former leaders and staff advocates in both the SADO and MAACS systems
- MAACS roster attorneys

The interviews were conducted virtually over Zoom between June 26, 2023 – October 20, 2023. Follow-up interviews and additional communications were conducted with SADO Director Jonathan Sacks and former MAACS Administrator Brad Hall. The majority of interviews conducted had at least two, and often three, members of the assessment team. A combination of identified, standardized questions were asked of all interviewees, and feedback was compiled through a combination of form responses and free notes. All materials were made available to the report's principal writer. The report was reviewed both by the assessment team and a contracted independent reviewer who did not take part in the interviews. To complete this report, NAPD staff reviewed the assessment team's findings and additional information from SADO/MAACS staff.

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<sup>1</sup> See Appendix 2: Assessment Team

<sup>2</sup> See Appendix 1: Materials Referenced

## Michigan Appellate System

Under Michigan’s Appellate Defender Act, indigent defense services in felony appeals are provided by both “the state appellate defender [and] a statewide roster of attorneys eligible for and willing to accept appointment by an appropriate court” (Michigan Compiled Laws (MCL) 780.712). An Appellate Defender Commission oversees both the public defender (the State Appellate Defender Office, or SADO) and the roster (the Michigan Appellate Assigned Counsel System, or MAACS).

Until 2014, the Commission governed SADO and MAACS as independent agencies within Michigan’s Judicial Branch. As the Commission evaluated the performance of SADO and MAACS and oversaw the appellate system, they concluded that:

1. While some private attorneys provided high-quality representation, private assigned counsel services under MAACS were inconsistent and of significantly poorer quality overall than SADO.
2. MAACS could benefit from SADO culture, training, and leadership in how to best represent clients.
3. SADO and MAACS could realize a series of efficiencies by combining administrative functions.

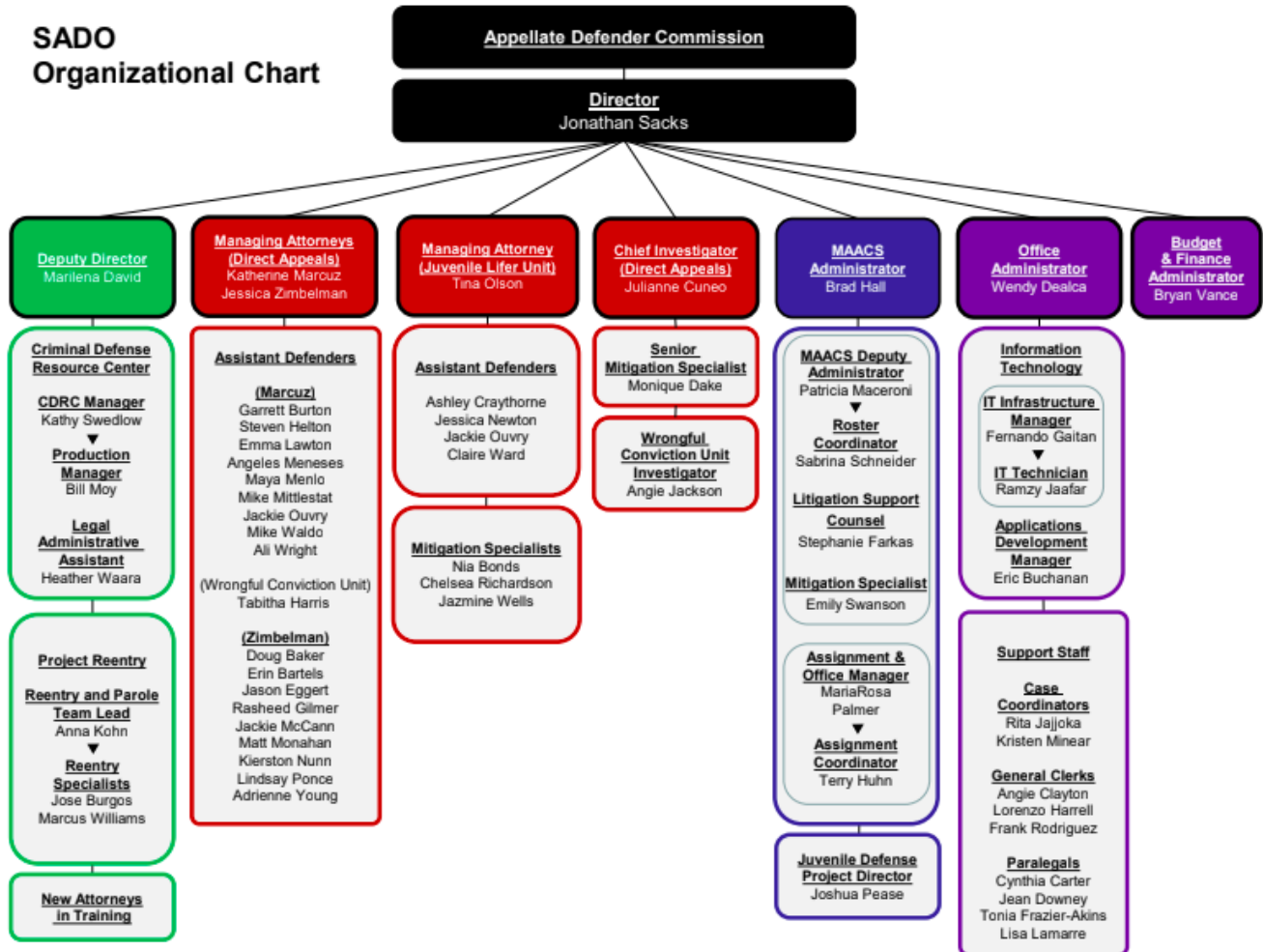
At the request of the Commission, the Michigan Supreme Court issued an Administrative Order in 2014 that merged the operations of SADO and MAACS “to promote efficiency and improve the administration of assigned appellate counsel for indigent defendants.” The Court required the State Appellate Defender to serve as the Administrator of MAACS.

As an initial matter, it is a huge benefit to both clients and attorneys that appellate counsel have their own independent oversight commission in Michigan. By merging SADO and MAACS under the commission, Michigan has demonstrated its commitment to public defense funding, standards, and high-quality representation for all, regardless of the service provider.

# SADO/MAACS Operations

## Organizational Structure

SADO/MAACS has an organizational chart that reflects how it shares and separates resources.<sup>3</sup> When the assessment team began its evaluation in January 2023, the organizational chart had the SADO Managing Attorneys, MAACS Administrator, and Deputy Director (overseeing shared staff) reporting directly to the Director.

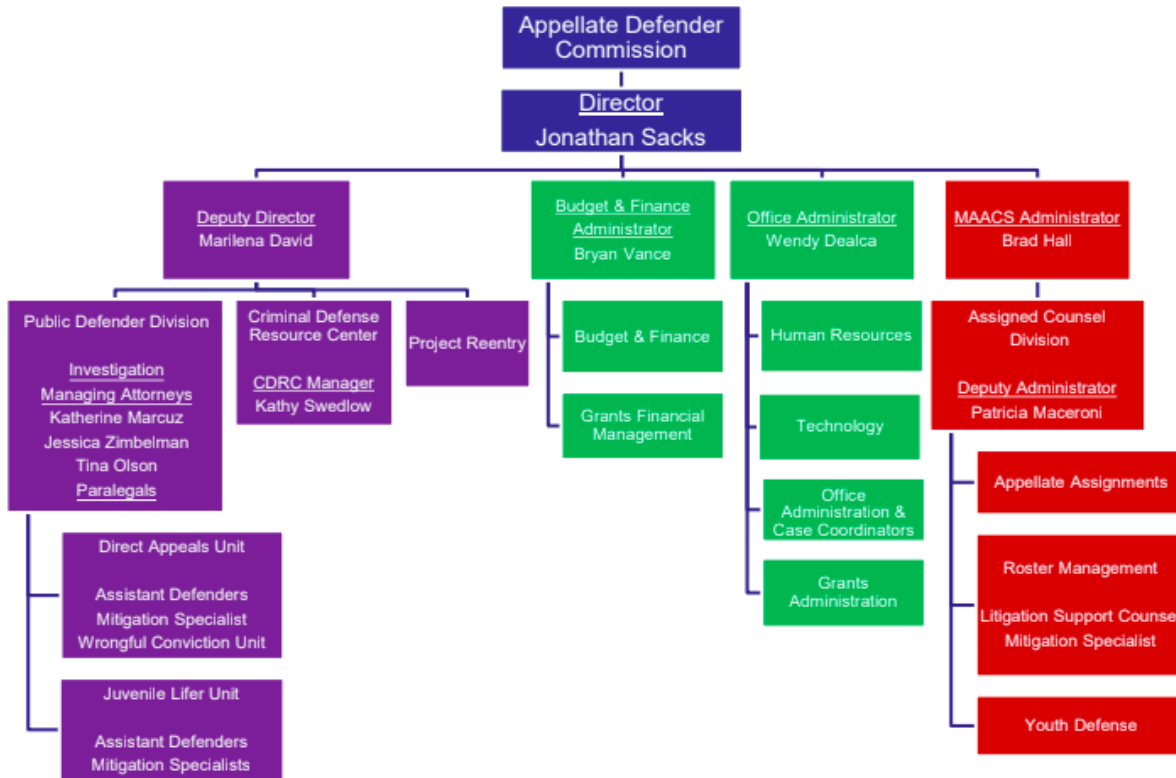


Revised: 11.14.2022

<sup>3</sup> The organizational charts included here refer to the agency as “SADO.” This report recommends using a neutral name that reflects the inclusion of both entities, such as “SADO/MAACS.”

In September 2023, towards the end of the assessment interviewing process, SADO/MAACS revised its organizational chart so that the Deputy Director oversees SADO and the Managing Attorneys and the MAACS Administrator oversees MAACS.

**2023 New SADO Organizational Chart**



According to Director Sacks in an internal memorandum, these changes were aimed at shifting his position more towards an “Appellate Defender model, where MAACS, SADO, and administration separately report to the Director, rather than multiple units of SADO in addition to MAACS and administration.” In reorganizing, Director Sacks hopes to “increase [his] focus on larger issues impacting SADO and MAACS and the people we represent and to build more external relationships and priorities.” Per Director Sacks, this includes growing SADO’s direct appeal division to increase intake and reduce workload pressure on the MAACS roster. NAPD agrees with these aspirations and recommends the organizational chart be further modified to achieve them, especially by adding a SADO Director separate from the Deputy Director.<sup>4</sup>

<sup>4</sup> See Recommendations.



## Physical Space

SADO/MAACS has two physical offices, one in Detroit and one in Lansing. Remote work is permissible, though some people interviewed felt that the policies are applied inconsistently. MAACS roster attorneys are based throughout the state, working from their own offices and homes.

## Culture and Staffing

### A. SADO

For the most part, as full-time public defenders, SADO staff work in one of two offices with each other and enjoy the benefit of regular interaction and collaboration. Stakeholder interviews suggested that SADO generally has a strong, cohesive organizational culture. SADO leadership and staff appear to collaborate well with one another and take great pride in the quality of representation they provide; some tension between the direct appeals and Juvenile Lifer Unit attorneys in SADO was noted in interviews, however. Employment with SADO is highly coveted.

SADO has a robust mentorship and training program (including a 6- to 18-month onboarding process) that promotes uniform, high-quality representation among its attorneys and fosters additional collaboration. SADO's team approach includes a robust investigatory, mitigation, and reentry staff who aid attorneys' ability to undertake factual development in their cases. SADO has approximately 26 attorneys, six mitigation specialists,<sup>5</sup> three reentry specialists, two fact investigators, and five paralegals on staff.<sup>6</sup>

### B. MAACS

As would be expected, MAACS' organizational culture presented as less cohesive than SADO's, as MAACS is composed of approximately 110 active roster attorneys<sup>7</sup> based in various offices throughout the state. MAACS leadership and staff appear to respect and support each other, though only a few work out of a shared office.

Since the SADO/MAACS merger, through grants and appropriations, MAACS has implemented litigation, mitigation, and reentry support for roster attorneys. This is a notable achievement for a managed assigned counsel system. One Litigation Support Counsel provides oversight for new

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<sup>5</sup> One direct appeals mitigation specialist and five juvenile lifer mitigation specialists. Additionally, SADO has a juvenile lifer mitigation specialist supervisor. Additional funding in fiscal year 2025 will permit SADO to hire three additional direct appeals investigators and three additional direct appeals mitigation specialists.

<sup>6</sup> Four direct appeal paralegals and one juvenile lifer paralegal. Additional funding in fiscal year 2025 will permit SADO to hire three additional direct appeals paralegals and a paralegal supervisor.

<sup>7</sup> Including roster attorneys who are inactive because of health, workload, or related issues, the roster has 180 attorneys. At the time of the report, the roster decreased to 110 people, but recent recruiting successes have increased the roster to 127 attorneys.

roster attorneys and experienced attorneys with consulting questions. New roster attorneys are required to work with Litigation Support Counsel on their first two cases.

Still, staff support is too limited for a roster of MAACS' size. There is only one MAACS staff member performing a particular role, making it challenging for MAACS staff to collaborate on cases and challenges. One Litigation Support Counsel is not adequate for training and mentoring a roster of 110 active attorneys. MAACS also lacks the investigatory resources that SADO enjoys, which is particularly problematic in a state like Michigan where collateral and direct review of criminal cases are combined. In part, this is due to MAACS' structure: while SADO attorneys work with investigators who are fellow staff members, roster attorneys must request an investigator through a process that is run by the Michigan Indigent Defense Commission but subject to local control.<sup>8</sup> In some places, local funders limit fees for investigators and are reluctant to approve expenses for unfamiliar investigators. Within MAACS, there is only one staff mitigation specialist and no staff investigator. Adding on-staff investigators could make investigation more accessible and consistent amongst roster attorneys, and reflect an agency commitment to investigation by roster attorneys. In addition, the MAACS mitigation specialist is used by only a fraction of the attorneys in cases. More training on team defense could promote that kind of collaboration.

### **C. SADO and MAACS Relationship**

SADO and MAACS staff work together in some capacities. For example, the SADO/MAACS merger has provided increased access to SADO training for MAACS roster attorneys. Stakeholders uniformly agreed on this critical merger benefit. In addition, SADO's Senior Mitigation Specialist provides supervision and support for other SADO mitigation specialists and MAACS' one mitigation specialist. And, through a joint grant, MAACS roster attorneys have access to the SADO/MAACS reentry specialists. But the ability of MAACS staff to collaborate with SADO staff is at times limited by the potential for case conflicts of interest.

Since the merger, there have been efforts to integrate SADO and MAACS, such as the implementation of a shared values system; shared employee handbook; hybrid in-office/work-from-home arrangements; union membership expanded to MAACS staff<sup>9</sup>; and combined training. But interviews with SADO and MAACS staff reflected that there is still a sense of an "us/them" dynamic and a feeling that SADO is favored over MAACS. This perception seems to be internalized and perpetuated by the larger legal community. It is imperative that equity between the two organizations in terms of resources and performance continue to be pursued to resolve these dynamics.

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<sup>8</sup> SADO attorneys use this process to request expert witnesses.

<sup>9</sup> In August 2020, the Appellate Defender Commission recognized a bargaining unit representing all SADO and MAACS staff. SADO/MAACS entered into a collective bargaining agreement with the union in September 2023. SADO/MAACS staff are represented by the UAW Union. MAACS roster attorneys are not SADO or MAACS employees and thus not represented by the Union.

## Standards

Both SADO and MAACS abide by Michigan’s Minimum Standards for Indigent Criminal Appellate Defense Services. These standards animate best practices for Michigan appellate defenders and articulate special considerations for youthful offenders. The Minimum Standards address:

1. Prompt record collection and review
2. Client consultation
3. Litigation of all potentially meritorious issues
4. “Pro per” supplemental briefing
5. Abandonment/withdrawal/voluntary dismissal
6. Oral argument
7. Client communication
8. Case disposition/facilitating the work of successor counsel
9. Outside fees

The number of Minimum Standards violations by MAACS attorneys was reduced significantly between 2016 and 2021, likely due to improved training and oversight achieved through the merger with SADO.

MAACS is also governed by the Michigan Appellate Assigned Counsel System Regulations. Revised after the SADO/MAACS merger, these regulations set up a largely model managed assigned counsel system. These regulations detail, inter alia, the processes for: applying to the MAACS roster; attorney classification, performance review, and reclassification; suspension and removal; record retention; and attorney assignment. Because of workload pressures noted below, however, the MAACS Administrator is at times reluctant to remove under-performing attorneys from the roster. The result, according to interviews, is that quality of work by MAACS attorneys varies widely.

## Case Assignment Procedures

A statutory mandate (MCL 780.716(c)) requires SADO to handle no “less than 25% of the total criminal defense appellate cases for indigents pending before the appellate courts of this state.” A series of internal memos circulated in 2020 describes the weighted system SADO uses to assess attorney workload.<sup>10</sup> This system was modified by vote of the Appellate Defender Commission in June of 2020 to allow for further SADO workload reductions in response to a workload crisis for SADO public defenders that reportedly had started to impact recruitment and retention.

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<sup>10</sup> Additional detail about case weights is provided in SADO/MAACS’ 2023 Annual Report, on page 10-11. Trial appeals have higher case weights because they tend to take more time. In 2023, SADO received about 8% of all appeal assignments, but 30% of jury trial appeals and 32% of waiver trial appeals assignments.

SADO attorneys have a cap of 26.4 cases per year adjusted by the Commission to 21.6 cases per year. MAACS attorneys do not have a workload cap. In 2023, SADO handled approximately 30% of the total pending cases,<sup>11</sup> and MAACS roster attorneys handled approximately 70% of the total pending cases. There were 22 MAACS attorneys with higher workloads than SADO attorneys, and some with extremely high caseloads; as noted in the 2023 Annual Report, “three MAACS roster attorneys handled more adjusted cases (211) than all SADO attorneys combined (206).”<sup>12</sup> A 2024 workloads assessment by the National Center for State Courts recommended lower, equal workload limits (of 14.8 weighted cases per year) to meet ethical guidelines, and made recommendations for implementing those limits.

The case assignment process consists of these steps:

1. The Appellate Defender Commission sets SADO attorney yearly workload caps.
2. Each month, SADO Managing Attorneys set intake per attorney based on these caps (setting both trial and plea appeal intake limits), and adjust if needed based on active attorney caseloads, considering factors like parental leave and attorneys still in training. SADO Managing Attorneys can set intake to zero, which has occurred during a workload crisis.
3. The Director reviews and approves this determination.
4. The Office Administrator calculates overall SADO intake.
5. The MAACS Assignment Manager assigns SADO cases through a random selection process with a computerized case management system. SADO must accept assignments that are part of this standard process.
6. The MAACS Assignment Manager assigns MAACS cases to the next eligible roster attorney, or a SADO Managing Attorney determines which of their attorneys to assign.

Outside of this process, when a special case arises, the MAACS Assignment Manager can request that SADO accepts an out-of-rotation assignment. This routinely occurs when a case would cause a conflict of interest; be best suited for the resources of the public defender office; or has been rejected by the entire MAACS roster (labelled as “list exhausted”).<sup>13</sup> SADO Managing Attorneys accept these assignments when their intake capacity allows.

This process has been effective for avoiding conflicts of interest<sup>14</sup> and for controlling SADO workloads, consistent with national best practices.

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<sup>11</sup> Pending cases exclude the vast majority of plea cases, which require the appointment of counsel, record review, legal research, and consultation with the client, but may not result in the filing of an appeal.

<sup>12</sup> Internal data from the preceding 5 years shows that this was a consistent distribution.

<sup>13</sup> Roster attorneys are expected to reject cases when they have high workloads or lack case-specific experience.

<sup>14</sup> The only appearance of a conflict discovered by the assessment team was a joint letterhead, which was sent to clients who had been represented by both divisions. This situation was quickly rectified by eliminating the joint letterhead and no actual, case-related conflict of interest occurred.

MAACS workload, however, is not controlled and there is no alternative service provider if MAACS has more cases than it can handle.<sup>15</sup> This has resulted in internal tension over workload distribution. In interviews, some MAACS staff disagreed with how SADO assigns case weights and intake, and felt that the process could be manipulated, at the expense of MAACS and its clients. Very recently, a lack of capacity at MAACS has caused a delay (up to a few months for trial appeals and one month for plea appeals) in the appointment of counsel in some cases. In eight collateral review cases outside the statutory mandate,<sup>16</sup> appointment was deemed impossible.

Setting equal workload caps for SADO and MAACS and increasing the capacity of SADO and MAACS to take assignments are necessary steps for avoiding excessive workloads and delays, and for resolving tensions over workload distribution.

Workload caps should also account for MAACS attorneys' entire workloads. MAACS tracks only the cases it assigns to its roster attorneys. MAACS should regularly and systemically monitor roster attorneys' private criminal, federal, and civil cases—including case complexity—to ensure MAACS roster attorneys are maintaining reasonable workloads and inform each new assignment decision.

## **Budget**

SADO/MAACS' 2023 operating budget was approximately 9 million dollars. In fiscal years 2024 and 2025, the Governor's budget recommendations include 3.2 million dollars for a new MAACS fund to properly compensate MAACS roster attorneys and 3.3 million dollars for SADO to add 23 new positions, including eight new lawyers and one new managing attorney.<sup>17</sup> Recent funding infusions and rate increases have motivated attorneys to join or rejoin the MAACS roster, counter to national trends. Still, additional funding will be needed to allow SADO/MAACS to handle current case demands.

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<sup>15</sup> Occasionally certain cases get assigned to trial counsel through the courts.

<sup>16</sup> These cases involve motions for relief from judgment, which are mostly based on allegations of ineffective assistance of appellate counsel. See Michigan Court Rule 6.500, Postappeal Relief.

<sup>17</sup> See notes 5-6 on additional mitigation specialists, investigators, and paralegals.

## National Standards

The SADO/MAACS system is largely in compliance with the American Bar Association (ABA) Ten Principles of a Public Defense Delivery System and relevant National Association for Public Defense (NAPD) Foundational Principles. The assessment identified a few areas for improvement.

1. **ABA Principle 1, NAPD Principle 2, Independence:** SADO/MAACS is an independent, single statewide system. Neither the bench nor the prosecuting agency have any say or control over funding or appointment of counsel. Staff are compensated based on a statewide civil service pay scale. The courts are not involved in hiring and expert witness decisions. MAACS roster rates have recently moved toward statewide uniformity and reasonable fees.
2. **ABA Principle 2, Funding, Structure, and Oversight:** This principle recommends a mixed system of service providers. In terms of governance, the merged SADO and MAACS is largely a model system of a public defender office and managed assigned counsel program with commission oversight.
3. **ABA Principle 3, NAPD Principle 5, Control of Workloads:** SADO has workload caps and controls, but MAACS does not. As recommended by a recent workloads assessment, there should be equal workload limits for SADO and MAACS attorneys. Adding SADO public defenders would also help alleviate MAACS workloads.
4. **ABA Principle 4, Data Collection and Transparency:** The SADO/MAACS system collects and synthesizes an impressive amount of data and makes it publicly available through the Appellate Commission.
5. **ABA Principle 5, NAPD Principle 4, Eligibility and Fees for Public Defense:** The SADO/MAACS system provides appellate representation for persons unable to afford legal services.
6. **ABA Principle 6, Early and Confidential Access to Counsel:** SADO/MAACS receives cases upon conviction and cases are immediately assigned to either SADO or MAACS. When MAACS has been over capacity, however, there have been delays in appointing attorneys. This fiscal year's anticipated increases in SADO attorney staffing and the MAACS attorney roster should alleviate these recent delays.

The SADO/MAACS system enjoys reasonable access to its clients in confidential spaces. Visits are "contact," meaning there are no physical barriers between attorney and client. Modern prison facilities have a dedicated, confidential attorney-client meeting space. Older facilities use existing spaces, such as converted classrooms. Attorneys have the option of meeting with clients virtually. Interviews indicated that MAACS roster attorneys visit their clients in person less than SADO attorneys do. More onboarding and litigation support for MAACS roster attorneys could address the importance of in-person meetings with clients.

7. **ABA Principle 7, NAPD Principle 7, Experience, Training, and Supervision:** SADO/MAACS excels in providing continuing education for its attorneys and investigators

on an ongoing basis. SADO has a long tradition of high-quality training and experienced attorneys, and sharing this training with MAACS attorneys has been a key merger benefit. MAACS has also added a Litigation Support Counsel to provide training, mentoring, and consultation for roster attorneys. But for a roster of 110 active attorneys (and growing), more Litigation Support Counsel and other training support is needed.

8. **ABA Principle 8, Vertical Representation:** The SADO/MAACS system provides for the same attorney throughout the direct appeal.
9. **ABA Principle 9, NAPD Principle 8, Essential Components of Effective Representation:** SADO is well-resourced, well-trained, and experienced, and provides client-centered, holistic representation. It has established a specialized Reentry and Parole unit and a Juvenile Lifer unit and has a wrongful conviction investigator and several mitigation specialists. MAACS lacks comparable resources, with only a few staff for the roster. SADO/MAACS should aspire to create greater parity.
10. **ABA Principle 10, NAPD Principle 14, Public Defense as Legal System Partners:** SADO/MAACS is an active participant in the Michigan legal system, with a voice in the legislature. Historically, Michigan appellate public defenders earned approximately 80–90% of their prosecutorial counterparts. As of October 1, 2024, that gap will be closed, and parity will be achieved.

## Recommendations

The SADO/MAACS merger has resulted in major improvements for both entities. This report recommends steps to build on that success:

1. To promote agency cohesion, the organizational chart should be changed to:
  - a. Rename “SADO” to “SADO/MAACS” (or some other neutral name, such as the Michigan Appellate Defense Program) to reflect that it is an all-inclusive chart representing the structure of the entire system;
  - b. Change the “SADO Director” to “Appellate Director” to reflect their responsibility for standardizing the quality of services across the two delivery mechanisms;
  - c. Add a “SADO Director” on equal footing with the MAACS Director;
  - d. Modify the Criminal Defense Resource Center and Project Reentry to shared resources, or create similar resources for MAACS.
2. To ensure that case assignments are impartial and based on professional standards, case assignment should be managed by the Appellate Director.
3. To control workloads and allow for ethical representation in all cases, MAACS should have workload caps equal to SADO’s and a written policy on case declination.
4. To alleviate MAACS workloads, SADO should be provided the resources to hire additional public defenders.
5. To help control workloads and to improve the quality of representation, MAACS should be provided the resources to hire additional investigatory and support staff and train roster attorneys in the importance of factual development.
6. To provide the ongoing training and support needed for a managed assigned counsel system, MAACS should be provided the resources to hire more Litigation Support Counsel.



## Conclusion

The merged SADO/MAACS under the Appellate Defender Commission is largely a model indigent defense delivery structure, though it has some organizational and cultural challenges. SADO has a well-earned reputation for high-quality, client-centered representation, and MAACS should share that reputation, without sharing resources that would create conflicts of interest.

To achieve that, position titles and organizational structure must reflect the equal footing of SADO and MAACS. Differences in onboarding, training, mentorship, case support, and workload controls must be resolved to avoid creating two classes of lawyering for clients and tension among colleagues. In particular, case assignment procedures must be changed to allow for a fair and transparent workload distribution, both in fact and perception.

In sum, while there are structural differences between public defender and managed assigned counsel offices, and while a degree of distance between them is needed to avoid conflicts of interest, SADO/MAACS should be an agency with a shared sense of purpose that provides high-quality representation for all clients. Those goals require equal resources.

NAPD commends SADO/MAACS for undertaking this assessment and for its continued efforts to improve public defense.

## Appendix 1: Materials Referenced

- ABA Ten Principles of a Public Defense Delivery System (2023)
- ABA Standards for Criminal Justice: Providing Defense Services (1992)
- NAPD Foundational Principles (2017)
- Administrative Orders (Nos. 1981-7, 1989-3, 2004-6, 2014-18, 2014-18 amended, 2015-9, 2015-9 extension, 2017-3)
- Minimum Standards (Effective January 1, 2005, with September 20, 2023, MAACS Comment)
- MAACS Regulations (Effective September 20, 2017, Amended September 20, 2023)
- Appellate Defender Act, Michigan Compiled Laws, Act 620 of 1978
- SADO/MAACS Annual and Budget Reports (1971-2023)
- Appellate Defender Commission Audit Report (2022)
- NCSC SADO/MAACS Workload Assessment (2024)
- SADO/MAACS Caseload Distribution Reports (December 2022, March 2024) (on file with authors)
- Internal Memoranda re: Workload Issues (June 17, 2020) (on file with authors)
- MAACS Minimum Standards Violations Findings, 2015-2021 (on file with authors)
- Internal Memorandum re: Organizational Chart Shift (September 1, 2023) (on file with authors)
- SADO Employee Handbook (revised January 22, 2022) (on file with authors)
- SADO Internal Operating Procedures manual (on file with authors)
- SADO Performance Review forms (on file with authors)
- SADO/MAACS Strategic Planning documents (on file with authors)
- SADO/MAACS Union Agreement documents (on file with authors)
- SADO Criminal Defense Newsletter article, “Indigent Appellate Defense Reform: Michigan Appellate Assigned Counsel System (MAACS) Concludes Two-Year Pilot Project to Standardize Fees and Improve Efficiency” (2017) (on file with authors)
- Michigan Bar Journal article, “Ensuring Independence and Quality in a Managed Assigned Counsel System” (2019)
- MAACS Report to the Appellate Defender Commission (1999) (on file with authors)
- State Appellate Defender Outcome Analysis (1986) (on file with authors)

## Appendix 2: Assessment Team

### **Amy Armstrong, Director, Arizona Capital Representation Project**

Amy Armstrong is an attorney with 21 years of experience in capital defense work. Since 2009, Amy has served as the director and staff counsel at the Arizona Capital Representation Project (ACRP), a non-profit legal resource center dedicated to improving the quality of representation afforded to capital defendants in Arizona. In her capacity at ACRP, Amy is appointed to represent capital and JLWOP clients in direct appeal, post-conviction, and federal habeas proceedings, and provides pro bono consulting and training to counsel in capital cases at all stages, from pretrial through clemency. Amy serves as a capital consultant for the National Association of Criminal Defense Lawyers, training defense teams through bring-your-own-case trainings and organizes and directs the annual Shechmeister Death Penalty College at Santa Clara Law. Amy oversees the fundraising, policy, and administrative functions of ACRP. Prior to working for ACRP, she worked with Kuykendall & Associates as an associate attorney on capital and non-capital trial, post-conviction, and federal habeas cases, and with the Mexican Capital Legal Assistance Program providing case-tracking and consulting services to Mexican Nationals facing the death penalty in the United States.

### **John Bailey, Criminal Defense Attorney in Private Practice**

John Bailey began his public defender career as an investigator intern with the Public Defender Service in Washington, D.C. between college and law school. As a 3rd year law student, he represented indigents accused of misdemeanor offenses in the Law Students in Court program in D.C. Superior Court. After law school, from 1983 till 1987, he was an Assistant Public Defender with the Louisville, KY Public Defender. From 1987 till 1989, he was an Assistant Public Defender with the Rhode Island Public Defender. From 1989 till 1991, he was an attorney with the Arizona Capital Representation Project (ACRP). In 1991, he was the Deputy Public Defender with the New Hampshire State Public Defender. From 1992 till 1996, he was the Director of the Western District Capital Unit of the Missouri Public Defender. Since 1996, he has been in private practice, exclusively representing indigent defendants and primarily representing clients on capital cases. He has been appointed as “learned counsel” pursuant to 18 U.S.C. §3005 in federal capital cases in Rhode Island, Tennessee (7), Michigan, Mississippi, and Kentucky. He has also represented capital clients in state court in Missouri, Arizona, Tennessee, and California. Although primarily a trial attorney, he has represented clients in numerous appeals, including oral arguments before the Supreme Courts of Kentucky, Rhode Island, Missouri and the Sixth Circuit Court of Appeals. He has also represented capital clients in state post-conviction proceedings, federal habeas corpus proceedings, and executive clemency proceedings. He has also been appointed as a “Strickland expert” in capital post-conviction cases in Arizona and South Carolina.

### **Talen Francis, Training Coordinator, NAPD**

Talen Francis holds a Bachelor of Science in Psychology and a Bachelor of Arts in Political Science, complemented by a secondary specialization in Philosophy and Social Sciences from Gardner-Webb University. Talen’s professional journey began with an internship at the King Law Offices of Forest City. Following that, she worked at the Town Hall of Boiling Springs as a Public

Administrative Assistant and Social Media Manager. In this role, Talen gained valuable experience in system processing for multiple departments. Talen further expanded her experience by working as an office assistant for Ice Detailing Co. In July 2022, she embarked on a new journey with the National Association for Public Defense (NAPD), starting as an intern and advancing to a part-time Special Projects Assistant. Talen presently serves as NAPD's Training Coordinator, leveraging her skills and expertise to contribute to the organization's mission.

**Heather Hall, Former Outreach Coordinator, NAPD**

Heather H. Hall joined the National Association for Public Defense as a member in February 2014, and served as its Engagement Director and Outreach Coordinator until 2024. Prior to this role with NAPD, Heather was the Special Projects Advisor for the Louisiana Public Defender Board (Baton Rouge) from 2008-2014. From 2004-2008, Heather worked as the Director of the Louisiana Justice Coalition, a non-profit, sixteen-member coalition committed to public defense reform in Louisiana. In that capacity, she built a consensus of support around the American Bar Association Ten Principles of a Public Defense Delivery System, solicited media attention and support for reform, undertook a diverse public education campaign in all 64 parishes, and initiated community-oriented defense projects in select districts. She started her professional work with the ACLU of Louisiana as their Legislative & Education Associate from 2002-2004. Heather received her Bachelor's Degrees in Religion and History from the University of Rochester (Rochester, NY) in 2002.

**La Mer Kyle-Griffiths, Training Division Chief, Los Angeles County Public Defender's Office**

La Mer Kyle-Griffiths is the Training Division Chief at the LA County Public Defender's Office. She was previously an Assistant Public Defender at the Santa Barbara County Public Defender's Office. She has been a lifelong public defender amplifying the voices of the poor in Kentucky, Massachusetts, Washington, Oklahoma, and now California. She is Secretary of the NAPD Executive Board and on the Board of the National Criminal Defense College. Before arriving in California, she was the Director of Training and Complex Litigation with the not-for-profit organization Still She Rises in Tulsa, Oklahoma focused on representing women caregivers suffering the highest rate of female incarceration in the country. In Seattle, she was responsible for designing, organizing, and facilitating training for over 400 public defense team members. There she gained an appreciation for the need for defense teams to actively engage with their implicit bias. Before that, she practiced for over 17 years as a public defender in Kentucky and Massachusetts. In Kentucky, she was part of the Capital Defense Unit and the Juvenile Post-Disposition Unit where she litigated several death penalty cases. She has taught trainers, investigators, attorneys, administrative professionals, leaders, mitigation specialists, and law students across the country in capital litigation, appellate litigation, litigation with a racial and gender lens, giving feedback, equity and inclusion, leadership, support, investigation, sentencing, effective communication, trial skills, and forensics. She has led strategic planning efforts and office assessments and designed 2 performance review systems.