



Hon. Matthew J. Fader, Chair
Chief Judge
Court of Appeals

Hon. Keith A. Baynes
Chair, Conference of Circuit Judges

Hon. Pamela J. Brown
District Court in Howard County

Hon. Donine Carrington-Martin
Circuit Court for Charles County

Hon. Audrey J. S. Carrión
Vice-Chair, Conference of Circuit Judges

Hon. Karen Christy Holt Chesser
District Court in St. Mary's County

Hon. Kathleen Duvall
Vice-Chair, Conference of Circuit Judges

Nancy Faulkner, Secretary
Deputy State Court Administrator

Hon. Jeffrey S. Getty
Circuit Court for Allegany County

Markisha Gross, Administrative Clerk
District Court in Montgomery County

Kristin Grossnickle
Vice-Chair, Conference of Circuit Court
Administrators

Pamela Harris
State Court Administrator

Hon. Fred S. Hecker
Circuit Court for Carroll County

Hon. James A. Kenney III
Chair, Senior Judges Committee

Hon. John P. McKenna
District Court in Anne Arundel County

Hon. John P. Morrissey, Chief Judge
District Court of Maryland

Hon. Bonnie G. Schneider
District Court in Cecil County

Hon. Kathy P. Smith
Chair, Conference of Circuit Court Clerks

Lara Stone, Administrative Clerk
District Court in Harford County

Roberta Warnken, Chief Clerk
District Court of Maryland

Hon. E. Greg Wells, Chief Justice
Court of Special Appeals

Hon. Alan M. Wilner
Chair, Standing Committee on Rules of
Practice and Procedure

Burgess Wood
Chair, Conference of Circuit Court
Administrators

MARYLAND JUDICIAL COUNCIL

MARYLAND JUDICIAL COUNCIL

Meeting Minutes
November 16, 2022

Judicial Council Members Present:

Hon. Matthew J. Fader, Chair
Hon. Keith A. Baynes
Hon. Pamela J. Brown
Hon. Donine Carrington Martin
Hon. Audrey J.S. Carrión
Hon. Karen Christy Holt Chesser
Hon. Kathleen Duvall
Nancy Faulkner
Hon. Jeffrey S. Getty
Markisha Gross
Kristin Grossnickle
Pamela Harris

Hon. Fred S. Hecker
Hon. James Kenney, III
Hon. John P. McKenna
Hon. John P. Morrissey
Hon. Bonnie G. Schneider
Hon. Kathy P. Smith
Lara Stone
Roberta L. Warnken
Hon. E. Greg Wells
Hon. Alan M. Wilner
Burgess Wood

Others Present:

Gray Barton
Hon. Kathleen Beckstead
Justin Bernstein
Hon. Yolanda Curtin
Hon. Kimberly Davis
Shamika Dent-Williams
Dominique Johnigan
Hon. Glenn Klavans

Pam Ortiz
Val Pompey
Sharon Reed
Hon. Michael Siri
Gillian Tonkin
Jamie Walter
Hon. Brett R. Wilson

A meeting of the Judicial Council was held on Wednesday, November 16, 2022, at the Maryland Judicial Center, beginning at 9:30 a.m. Chief Judge Fader opened with a reminder that the meeting was being livestreamed on Mdcourts.gov. He welcomed those participating from AOC accounting and reminded the Council that GEARS training is always available to members.

Chief Judge Fader then acknowledged the challenges faced during a time of transition with new Council members, the new Trial Judge Mentoring Workgroup, and many changes in state leadership as a result of the elections. In addition, developments on a national scale, specifically with the U.S. Supreme Court, will have an impact on Maryland and our job is to remain independent arbiters of law. The Council is a very important part in making sure we continue toward that mission.

Chief Judge Morrissey introduced Sharon Reed who replaced Carol Burkhardt. She is taking over senior judge scheduling for District Court. All members welcomed Sharon.

Judge John McKenna moved for approval of the minutes from the September 28, 2022, meeting. Following a second, the minutes were unanimously approved.

Judge Michael Siri and Pam Ortiz presented on behalf of the Disability Inclusion Workgroup. They explained that there are over a million adults in Maryland with a disability and the purpose of this workgroup is both inward and outward. The group will provide guidance to the Judiciary regarding how to recruit and support employees with disabilities. This will include education and knowledge surrounding how ability barriers impact the administration of justice. In addition, they will focus on enhancing outreach and communication to improve public perception. Members include both circuit and District Court judges, members of the public, AOC Legal Affairs, Human Resources, and Talent Acquisition.

The workgroup made several recommendations for recruitment and support of employees with disabilities. In regard to communication and exhibit openness, it was recommended that the Judiciary work to simplify the hiring process and to make requests for accommodations easier to access on the website. It was recommended that the Judiciary make the job application process more accessible, so that individuals with disabilities can easily apply. Providing short informational videos will be helpful.

The Judiciary needs to change the perception of positions that are open and available – most of the public thinks that jobs for the Judiciary require a legal degree. The goal is to promote all available jobs through job fairs and social media. The workgroup created a list of organizations that work to support individuals with disabilities. If there is a judicial vacancy, the information would be sent to the organizations for distribution to their members. This may make applicants with disabilities more comfortable in applying for the position based on it coming from the organization.

To enhance internal awareness and education, the Judiciary should educate hiring managers on how to meet reasonable accommodations, provide tip sheets to simplify the process, and utilize an existing communication tool to expand information to employees. For instance, something similar to the Judges' Gazette. Additional support should be provided to employees, through activities such as creating affinity groups where individuals with similar concerns may meet to make recommendations and requests together.

The workgroup made the following recommendations for communication and outreach: promote awareness of accommodation resources by sharing information with anyone interacting with the courts (i.e., parties to a case, witnesses, etc.); making it easier for someone to request an accommodation, ideally before even reaching the courthouse; providing signage and guidance in courthouses regarding accommodation requests and properly training staff to promote inclusivity; raising the profile of persons with disabilities by ensuring that representation of all employees is provided in Judiciary education and content; and by utilizing social media to provide accurate information to a broader audience. As an organization, we need to educate the

public on how to get assistance and on what the Judiciary is doing to be inclusive.

Ms. Ortiz requested that the Council accept the recommendations. She stated they can be easily implemented and will be significant in how to help both existing employees and the public. Judge Siri thanked the workgroup for their work and stated he would be presenting this information to the New Trial Judge Orientation.

Chief Judge Fader noted that the recommendations covered a lot of areas, including Human Resources and Government Relations. He asked whether those departments were consulted or made aware of their potential responsibilities. Judge Siri responded this is precisely why their membership includes Human Resources, Talent Acquisition, and others from AOC. Depending on approval of these recommendations, the next step would be to divide up who would be best qualified to do the work.

After no further discussion, Chief Judge Wells moved to accept the recommendations made by the workgroup. Judge Donine Carrington Martin provided a second, all were in favor, and the motion carried.

Judge Yolanda Curtin and Shamika Dent-Williams discussed the work of the Diversity and Inclusion Education Subcommittee. They explained this group focuses on the best ways to present a foundational program on implicit or unconscious bias before moving to the judicial bias testing. They discovered the most impactful learning takes place around the 30-minute mark. After vetting at least 12 different programs, the group requested approval to purchase a three-part self-paced learning course to be used during the implicit bias training. This course was previously reviewed and approved by the Education Committee, the Committee on Equal Justice, the Judicial College, and Monica Kindle.

The Council went into **Executive Session** to view and discuss the video. Guests were asked to step out and the livestream was paused.

After conclusion of the Executive Session, a presentation was made by the Specialty Courts and Dockets Committee. Judge Kimberly Davis and Gray Barton explained the scope of committee is to ensure the utilization of best practices and deliver evidence-based training for specialty courts and dockets. Judge Davis presented a list of committee members and is pleased with its diversity.

The work of the Behavioral Health Subcommittee focuses on reducing delays in placement of substance dependent defendants and ensuring resources are readily available for mentally ill individuals or individuals with substance use disorders in order to comply with their probation supervision. District Court is dealing with a backlog of placement for parties found to be incompetent and dangerous. The hearings are held in a timely manner, but there is no bed space available at Department of Health facilities, and some defendants are forced to wait at the detention centers. Meanwhile, they are not receiving the treatment they need, and some offenses exceed their time standards before the defendant is placed in the hospital. This subcommittee is working to address this serious issue.

Judge Thomas Pryal chairs the Problem-Solving Court Subcommittee. The subcommittee reviews applications from jurisdictions requesting approval for problem solving courts. There are

a number throughout the state, including a new mental health court in Baltimore County, and new drug courts in both Charles and Queen Anne's Counties. A graph was presented showing all problem solving courts that have been operational between FY94 and FY22. There is currently one "Back on Track" Court, which is at the Circuit Court for Prince George's County. The graph appears to show a plateau in programs between 2004 and 2013, however, the number of juvenile drug courts has simply decreased. Chief Judge Fader inquired as to the reason. Mr. Barton explained it was due to a change in the Department of Juvenile Service's policy. Most jurisdictions are now handling juvenile matters in-house and not through the courts. The only remaining juvenile drug court is in Prince George's County.

A chart showing the history of problem-solving court funding was reviewed, showing a steady increase. The federal government provided a \$1.7 million grant in FY22. Additional funding was received from the state. Judge McKenna asked whether the state funding included county monies and Mr. Barton responded no, it does not. However, counties like Anne Arundel provide tremendous support through the Criminal Justice Coordinating Council. The committee will continue to gather all funding resource options.

Judge Alan Wilner noted there are more problem solving courts available in circuit court than in District Court and inquired about alternative options for District Court. Judge Davis offered to poll other courts but explained that, for Baltimore County, defendants face lower maximum penalties and would rather serve time than face strict supervision. Lowering the penalties for cannabis took away the incentive for drug courts, as well. Judge McKenna echoed the challenge of recruitment for drug courts because it is rigorous, and many choose to opt out. Sentencing guidelines for VOPs compound the issue.

Chief Judge Wells added that smaller jurisdictions tend to engage the programs informally. They will work with agencies without the formality of an established program. It was added that St. Mary's District Court will refer cases to circuit court programs to ensure they maintain a caseload. Judge Schneider agreed that Cecil County District Court and circuit court have adopted each other's tracks. Judge Keith Baynes highlighted that JRA has reduced penalties and sanctions for VOPs, and Chief Judge Morrissey agreed that unsupervised probation has made drug court less desirable. He added that Dorchester County combines all courts in the lower four counties of the shore. Judge Jeffrey Getty explained that every participant in Alleghany Circuit Court drug court program gets a mental health evaluation. They found that sometimes substance use is a secondary issue and that a vast majority struggle with both substance abuse and mental health disorders.

Currently, there are a number of courts in the planning stages for new problem solving court programs: Frederick County Circuit Truancy Court, Frederick and Washington Counties Veterans Treatment Court, and Montgomery County District Court DUI Court.

The Office of Problem-Solving Courts (OPSC) continues to attend events such as graduations, complete programmatic site visits, attend program staffing and court hearings, and conduct grant visits. Judges and magistrates met with participants 22,675 times in court hearings in FY22. The programs served 3,148 participants in FY22. Last fiscal year, OPSC had 757 face-to-face contacts with programs.

The Bureau of Justice Assistance (BJA) Grant was awarded for a four-year cycle, with a start date beginning October 1, 2021. The federal share was \$1.7 million, and the state match was \$566,406. Categories one through three provide grants to individuals, but category four supports statewide adult drug courts and veterans treatment courts.

A Risk/Need pilot program workgroup is underway. Criminal cases will have a risk/need tool (**Risk And Need Triage**) given early in the judicial process. Judges, commissioners, and representatives from state's attorney and public defender's offices will help implement this tool. The tool will help expand capacity and increase participation of high-risk/high-need non-violent offenders with substance use disorders. Utilization of the tool should result in improved processing time and efficiency of referrals.

A request for proposals was issued for a Management Information System (MIS). The Judiciary currently uses SMART for treatment courts and this grant will allow us to acquire a new system with more functionality. The proposal deadline is November 30, 2022.

The OPSC was very active this year and participated in over 40 evaluations and studies. This information is important when seeking additional funding and showing transparency. Research in action looks at how the program is doing and how it can improve by analyzing findings to create user-friendly tools that help programs identify strengths and weaknesses; informing future problem solving courts of best practices; addressing institutionalized issues such as equity and inclusion; and using data to celebrate outcomes and achievements.

Mr. Barton discussed the Judiciary's adherence to best practices for problem solving courts. Treatment courts were asked to do a best practice assessment on how they were meeting the national standards. Initial results showed 77.8% adherence, however, a reassessment was done 6 months later with additional clarification. The results showed a 75.4% adherence. One particular best practice was conducting drug tests on weekends and holidays, which many courts do not do at this time. Mr. Barton's team worked with courts and agencies to work toward the best practices and provided site visits to help illustrate data. The most recent assessment indicated 80.5% adherence.

A procedural fairness survey was given to participants to assess their perceptions of fairness in their interactions with critical members of treatment courts' teams. The results showed that 91.2% had a positive perception of fairness. The benchmark is 80%.

Having no questions or discussion points, Chief Judge Fader thanked the team for their presentation. He acknowledged how important and meaningful the programs are around the state.

Judge Brett R. Wilson and Ms. Ortiz presented on behalf of the Court Access Committee. He acknowledged the Council has already moved forward with two major recommendations this year. The Court Access Committee formerly included Community Relations, but those functions are more appropriate for other committees. The focus this year was reducing barriers. Key accomplishments include readers and visual interpreters, as well as a bilingual staff initiative.

The Accessibility and Accommodations Subcommittee is focused on resources to allow more access in courts for those who need it. The Accessibility Toolkit is now available and easy for courts to use at entrances, Clerk's Offices, and courtrooms. New American Sign Language

videos are available in the online library that explain how to request and work with an ASL interpreter. Ms. Ortiz stated that this series is produced in ASL. A pilot program was implemented in Anne Arundel County for remote interpretation. Guidelines for readers, scribes and visual interpreters were recently approved by the Council in September. There are two sets of guidelines that provide details on meeting needs and how to choose the right staff to handle those roles.

Judicial Education held two related trainings in 2022 – Accessible Courtroom on April 12 and Jurors with Disabilities on July 11. Another presentation of Accessible Courtroom is planned for 2023, as well as a training for Cognitive and Mental Health Disabilities. Ms. Ortiz stated that Judge Gale Rasin is overseeing the development and implementation of the newest class.

The Language Access Subcommittee conducted an evaluation of the in-person interpreter services offered from FY15 to FY22. Circuit court has more assignments than District Court, and the upcoming remote interpreter program will increase usage. Data for hybrid hearings will be tracked separately.

The Bilingual Staff Workgroup was approved by the Council at the March meeting earlier this year. The purpose is to better utilize the skills of staff who can assist in informal courthouse interactions. A pilot program is underway to identify positions as “Qualified Bilingual.” The number of positions is determined by demographics and previous data. There will be a salary differential, if approved.

Also being piloted in Anne Arundel County is a hybrid virtual remote interpretation program. This program would make it more accessible for an interpreter to provide their services remotely, if needed. Ms. Ortiz stated a live hearing with equipment testing was done on October 13, 2022, using a remote interpreter. They determined that Courtsmart, Polycom, and Zoom need to be better integrated. In the meantime, she stated that participants may need to utilize other interpretation software when someone is not speaking on the record. Among other benefits, this program would allow immediate access to a national database of interpreters.

The Self-Represented Litigants Subcommittee expanded the video library to include a series on rent, access to court records, finding legal help, traffic cases, and obtaining an ASL interpreter. More videos are in production, such as e-filings, remote proceedings, and court basics. Ms. Ortiz stated they met with circuit court clerks to determine what further videos and tip sheets would be helpful.

Maryland Court Help Centers are used to help educate litigants and provide assistance. Two centers were opened this year, one in La Plata, which is staffed by the Maryland Center for Legal Assistance, and one in Washington County, which now has a law librarian, and a program providing remote assistance at the courthouse.

Many services switched to remote access during the pandemic. Instances of remote service increased by over 100,000 between FY12 and FY22. Walk-in instances increased by over 20,000 during that time and law libraries provided 32,666 instances of service, 75% of which involved assisting the public.

There are several Guide & File services being developed including expungements, motions to postpone, and interpreter requests. Ms. Ortiz stated that data is posted monthly on the resources managed by the Self-Represented Litigant Subcommittee. The Access to Justice dashboard is available for all to see and will soon include data on the number of people using Guide & File to e-file.

The goals for the upcoming year in the Court Access Committee include expansion of the video library, putting approved programs into practice, and implementing additional resources to reduce participation barriers. Chief Judge Fader closed their presentation with his sincere thanks for all the hard work the committee continues to do.

The Court Operations Committee is chaired by Judge Glenn Klavans. He thanked the Committee, subcommittee, and workgroup members for their continued progress. He noted that two workgroups are coming to a close – Court Staffing and Judicial Needs.

The Forms Subcommittee is a large and active committee with a number of workgroups. They have successfully implemented 263 form changes, 238 forms translated into five languages, 47 new forms, revisions to 167 existing forms, 3 forms were obsoleted, and 85 forms or brochures have been revised due to legislative or rule changes. The committee recently celebrated the 8th annual Forms Markup Day.

The launch of Guide & File to MDEC jurisdictions began in August 2022. There are six forms available to the public, with the most popular being “*May I Appear Remotely?*”. The increase in use by self-represented litigants indicates the ability to get through the system in a non-technical way.

The Jury Use and Management Subcommittee is chaired by Judge Brenda Sexton and works on methods to ensure uniform and best practices in jury offices statewide. They are addressing concerns of maintaining an accurate jury pool and ensuring that jurors are addressed by their preferred pronouns by modifying the questionnaire to include gender identification.

Additionally, the group obtained a vendor to produce a grand jury orientation video that will be ready for distribution in February 2023. A request for proposals will be done for a new jury management software, as well. A jury operations roundtable was formed consisting of jury clerks and commissioners to work on projects, such as updating the recommended amenities for jury lounges and offices and training for the new jury software.

A new Senior Judge Use Workgroup was formed in conjunction with the Senior Judges Committee and is chaired by Judge James Bonifant. The group recognized the value of senior judges, especially during the pandemic, and the need to develop a guide for best practices and the expectations placed upon them. This would include guidance for when they are assigned to specific hearings, arrival at designated courthouses, etc. A survey will be sent to administrative and senior judges to establish a baseline of needs to suggest.

Another new group is the Docket Management Workgroup, co-chaired by Judge Althea Handy and Judge Mark Scurti. The members reviewed three virtual court solution software products that are currently under consideration by JIS. The workgroup is looking at Odyssey integration, capacity for fully remote versus hybrid proceedings, waiting room functionality,

feasibility and privacy of bench conferences, public observation, processing of physical paperwork, and allowing attorneys to upload material. The systems we built throughout the pandemic are not likely to be the most optimal.

The workgroup is also exploring District Court and circuit court pre-docket and day-of-docket efficiencies. A survey will be administered on docket management and a final report will be produced by July 2023.

Judge Kathleen Beckstead provided an update on the Case Management Subcommittee. The FY22 caseload assessment generated five policy recommendations for consideration. In District Court, Dominique Johnigan explained that many cases went over time standards due to the effects of the pandemic. Clerks are working hard, and many issues are out of their control, such as police communication, scheduling conflicts, illness throughout agencies, etc. Chief Judge Morrissey stated that a DUI or must appear traffic citation entitles the defendant to an initial appearance, so when issues arise there is an automatic continuance granted to them.

Ms. Johnigan reviewed the various case types and time standards, which have not changed since 2016, and stated the Judiciary's goal is to have 98% of time standard cases completed timely. Small claim civil cases have the highest percentage of cases over time standards, while must appear traffic cases have the least. She also noted there was a decline in payable and must appear traffic citations issued in FY22 compared to FY19.

Justin Bernstein reviewed the case types and time standards reported for circuit court, reiterating the negative impacts of the pandemic. The average processing time from FY19 to FY22 increased, which is not a surprise. The case type that adhered closest to time standards were juvenile cases. Foreclosure cases closed at 57% within time standards, and 23% of CINA shelter cases closed within one week of time standard. The time to close family and limited divorce cases declined.

Mr. Bernstein stated the ultimate goal is 100% for circuit court, as opposed to 98% in District Court. For all case types except two, the median closing times were within standard. He noted that most foreclosures were disposed of within time standards, but the numbers were likely impacted by the pandemic.

Regarding Court of Special Appeals, Mr. Bernstein reported that 92% of cases were closed within time standard limit. For cases with Rules provisions, the standards continue to improve. Ms. Johnigan confirmed that all Court of Appeals cases were within time standards.

The five recommendations made by the Case Management Subcommittee were:

1. For the Court of Appeals, change the name of Bar Admissions to Bar Admissions Character Matters. This would more fully describe the case type and match statistical abstract.
2. For the Court of Appeals, change the name Extraordinary Writs to Miscellaneous Appeals. This would more fully describe the case type and match statistical abstract.
3. For the Court of Special Appeals, change the time standards for civil and criminal cases from 80% to 90% standard percentage goal and 100% within one year.
4. For the Court of Special Appeals, include cases that are disposed of early (prior to

- argument or submission on brief) to fully capture the work of the court.
5. For circuit court family law problem solving courts, recommendation to receive the same suspension as criminal problem solving courts to ensure continuity.

Chief Judge Fader thanked the committee for their data and presentation. After hearing no questions or discussions, Ms. Harris moved to implement recommended policy changes. Judge McKenna and Judge Wells seconded the motion and the motion carried. Chief Judge Fader accepted the recommendations.

Chief Judge Fader thanked the Council and all in attendance for their hard work. He emphasized how complex and critical the Council is to the function of the Judiciary, and how important it is to remain coordinated and consistent. He encouraged members to review materials ahead of the meetings to promote vigorous discussion.

Lastly, Chief Judge Fader presented plaques to six members rotating off the Council, including Judge Baynes, Judge Brown, Judge McKenna, Kathy Smith, Burgess Wood, and Markisha Gross. He acknowledged their efforts and thanked each of them for their service. Photographs were taken of each member with their plaque.

There being no further business, the meeting adjourned at 12:42 pm. The next meeting is scheduled for January 25, 2023, beginning 9:30 a.m.