



Hon. Matthew J. Fader, Chair
Chief Justice, Supreme Court of Maryland

Hon. Donine Carrington Martin
Circuit Court for Charles County

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

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

Hon. Kathleen Duvall
Chair, Conference of Circuit Court Clerks

Nancy Faulkner, Secretary
Deputy State Court Administrator

Hon. Jeffrey S. Getty
Circuit Court for Allegany County

Kristin Grossnickle
Chair, Conference of Circuit Court Administrators

Hon. Fred S. Hecker
Vice-Chair, Conference of Circuit Judges

Kathy Hefner, Administrative Clerk
District Court in Montgomery County

Hon. Geoffrey Hengerer
District Court in Baltimore City

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

Stephanie Medina
Vice-Chair, Conference of Circuit Court Administrators

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

Judy Rupp
State Court Administrator

Hon. Bonnie G. Schneider
District Court in Cecil County

Hon. Shaem Spencer
District Court in Anne Arundel County

Lara Stone, Administrative Clerk
District Court in Harford County

Hon. Kevin Tucker
Vice-Chair, Conference of Circuit Court Clerks

Roberta Warnken, Chief Clerk
District Court of Maryland

Hon. E. Greg Wells
Chief Judge, Appellate Court of Maryland

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

MARYLAND JUDICIAL COUNCIL

MARYLAND JUDICIAL COUNCIL

Meeting Minutes
November 15, 2023

Judicial Council Members Present:

Hon. Matthew J. Fader, Chair

Hon. Donine Carrington Martin

~~Hon. Audrey J. S. Carrión~~

Hon. Christy Holt Chesser

Hon. Kathleen Duvall

Nancy Faulkner

Hon. Jeffrey S. Getty

Kristin Grossnickle

Hon. Fred S. Hecker

Kathy Hefner

~~Hon. Geoffrey Hengerer~~

Hon. James A. Kenney, III

Stephanie Medina

Hon. John P. Morrissey

Judy Rupp

Hon. Bonnie G. Schneider

~~Hon. Shaem Spencer~~

Lara Stone

Hon. Kevin Tucker

Roberta Warnken

Hon. E. Greg Wells

Hon. Alan M. Wilner

Others Present:

Gray Barton

Justin Bernstein

Melissa Canada

Hon. Kimberly M. Davis

Shamika Dent-Williams

Lynn Emerson

Lou Gieszl

Diana Kean

Sharon Reed

Hon. Laura S. Ripken

Hon. Mark F. Scurti

Chris Sharpes

Dominique Johnigan Simmons

Brad Tanner

Gillian Tonkin

Jamie Walter

A meeting of the Judicial Council was held on Wednesday, November 15, 2023, at the Maryland Judicial Center, beginning at 9:30 a.m. Chief Justice Matthew Fader welcomed attendees and announced that the meeting was being livestreamed on mdcourts.gov.

Justice Fader acknowledged that this was the first time the Council has met since the tragic passing of Judge Andrew Wilkinson and led the group in a moment of silence. He added that he is actively working to ensure a similar instance does not happen, again.

Justice Fader then moved for approval of the minutes from the previous meeting. Judge Alan Wilner made a motion with a second from Judge Jeffrey S. Getty. After hearing no objection, the minutes were adopted.

1. Committee/Strategic Initiative Updates

a. Court Operations Committee

Judge Mark F. Scurti presented as chair of the Court Operations Committee, who oversees three subcommittees and seven workgroups. He began by thanking the committee staff members who were present for continuously supporting the mission of the Judiciary in ensuring the highest level of service.

The Jury Use and Management Subcommittee, chaired by Judge Brenda Sexton, develops uniform best practices in jury offices across the state. This year, the subcommittee oversaw the completion of a grand jury video and hopes to develop two more; including one that can be translated and another that explains what to do when a jury summons is received.

A concern brought up by Transgender Maryland was to provide more inclusive language and avoid terms such as “ladies and gentleman” during jury selection. The subcommittee is also researching national trends and the legal feasibility of expanding sources for jury pools. Finally, JIS assisted in rolling out updates to the jury software this year and the subcommittee is exploring a new jury management system.

The Forms Subcommittee, chaired by Judge Norman Stone, in partnership with District Court Administrative Services hosted the 9th annual Forms Day in June where 209 forms and brochures were reviewed for compliance with legislative changes. Throughout the year, the subcommittee reviewed a total of 293 forms; 263 of which were revised, and 30 were newly created. The subcommittee also facilitated the translation of 258 forms into five different languages and added an 8th Guide and File interview for a total of 16 available to the public.

The Court Operations Committee routinely assists in the process of grants awarded by the Administrative Office of the Courts (AOC). In FY24, the AOC provided \$36.7 million in grants to support courts, juvenile and family justice partners, mediation, research and analysis, and access to justice. Over \$1.4 million went to District Court to support problem-solving courts and a new grants management software, which streamlines the application process. In addition, the committee finalized its Courthouse Security Report on screening protocols and finalized best practices for senior judge use. Following advice from the Attorney General’s Office, the Court Operations Committee also updated the Court Reporting Manual and removed language regarding the broadcast of court proceedings.

The CourTools program was developed to maintain accountability and allows courts to monitor time to disposition reports, age of active pending cases, and other ways to address the backlog following the pandemic. The committee hopes to develop a plan for internal dashboards on key metrics and finalize court performance guides for trial courts.

In 2024, the committee will continue to assess the process for review of case management plans and the standardization of circuit court caseflow processes. In addition, Reserved Case Report training will be provided in Prince George’s County and Baltimore City. Lastly, following several

inquiries at the last Judicial Conference, the committee will finalize the development of best practices recommendations for docket management and will publish findings by July 2024.

Justice Fader inquired how the brochure updates are cataloged for courts to reference. Recently, a judge was unaware of the brochure created for jurors who experience secondary trauma. Perhaps a method should be in place that ensures resources are communicated or available for judges to access. Judge Scurti suggested having an information table available at the annual Judicial Conference to share updates and progress of the committee.

Caseflow Assessment Performance Results

Dominique Johnigan Simmons, Senior Researcher with Research & Analysis (R&A), reviewed the annual FY23 caseflow assessment. She explained that two measurements were utilized during analysis: the percentage of cases within standards and the average and median number of days overall. Random cases were sampled from each court, except the appellate courts where all cases processed in the last year were included. Cases missing a start date, removed by expungement, or with a stop or start date discrepancy were excluded.

The time standards in over 50,000 District Court cases were reviewed. Criminal cases as well as large and small civil cases were all within 10% of pre-Covid performance numbers. Of the traffic case types, §21-902 case time standards showed the least improvement, while traffic “must appear” cases increased the most. Payable traffic cases time standards continue to improve but notably were not a priority during the pandemic.

Justin Bernstein, Senior Researcher with R&A, reviewed the results of circuit court case time standards where just under 37,000 cases were sampled. Family law, limited divorce, CINA shelter, and TPR case types were all within 10% of pre-COVID performance. It should be noted that changes from Senate Bill 36 (Grounds for Divorce) in divorce cases were not applicable at the time of this caseflow review. Foreclosure and CINA non-shelter case types showed the most significant improvements. Justice Fader noted that juvenile cases showed a decrease in cases processed within the time standards and inquired whether there is a clear explanation. Mr. Bernstein replied that R&A would reach out to the courts to determine a potential cause for the decrease.

The new goal for time standards in the appellate courts is 90% of cases within 9 months and 100% within 1 year. In FY23, civil and criminal appeals exceeded 90% within 9 months, but fell short at 98% at 1 year. It is important to note that standards changed in the middle of the fiscal year, and approximately 1/3 of these cases were processed before the change went into effect. The next caseflow report is expected to reflect the time standards more accurately. Nevertheless, the numbers indicate that the courts are processing cases quickly, which has been historically true for the Appellate Courts. The full caseflow assessment report was emailed for the attendees’ records and will also be available to review online.

Judge Scurti then discussed four recommendations made by the committee:

1. Limited Divorce – recommendation is to remove this case type from time standards.

2. Juvenile Cases – recommendation is for a new case time suspension based on informal adjustment. At any time prior to the commencement of an adjudicatory hearing, with the consent of the State’s Attorney, the child, and the child’s attorney, the court may hold proceedings in abeyance and order the matter referred to the Department of Juvenile Services for informal adjustment. The suspension would start upon referral and stop upon completion, whether successful or unsuccessful.
3. Traffic Must Appear/Traffic §21-902 – recommendation is to modify the start date from the date of citation issuance to the date the defendant first appears before a judicial officer.

District Court Chief Judge John P. Morrissey added that officers were initially given the option to arrest or issue a citation in these cases, however, it is now mandatory to issue a citation and defendants are not advised until the first court appearance. Consequently, cases are being continued and time standards are negatively affected.

4. Criminal, Traffic Must Appear, Traffic §21-902 – recommendation is for a new case time suspension when a defendant fails to appear and a show cause is issued in lieu of a bench warrant. The start would occur upon issuance of the show cause and the suspension would stop upon service or the first appearance in court thereafter.

Judge Morrissey clarified by stating that some “must appear” cases do not carry aailable sanction. There have been several bench discussions and the general policy is for a judge to avoid issuing a bench warrant for events that are otherwise notailable. However, the issuance of a show cause does not stop the time and, therefore, the recommendation is to stop the clock once it has been issued.

Judge Bonnie G. Schneider moved for acceptance of the four recommendations discussed. Judge Christy Holt Chesser seconded the motion and, after hearing no objection, the modifications to the time standards were adopted.

Justice Fader acknowledged the importance of our standards reflecting reality and expressed his appreciation for the committee’s respectful approach to inclusivity.

b. Specialty Courts and Dockets Committee

Judge Kimberly M. Davis is chair of the Specialty Courts and Dockets Committee, which monitors the delivery of evidence-based training, technical assistance, research, funding, and support for specialty courts and dockets. The committee oversees two subcommittees and three workgroups.

The Behavioral Health Subcommittee is chaired by Judge Patrice Lewis and works closely with the Maryland Department of Health (MDH) to support defendants who are mentally ill, developmentally disabled, or have substance use disorders, both in the community and through residential treatment programs.

In 2023, courts across the state experienced significant delays in placement of individuals found to be incompetent and dangerous, leaving defendants untreated within detention centers. In September, members of the committee along with Justice Fader and Judge Morrissey met with the

Secretary of MDH to discuss how MDH is addressing the issue of delayed placement. MDH explained there are challenges on the front end with lack of bed space and staff shortages but also there is a lack of community resources once someone is ready to be released. As a result, defendants are released before placement due to time standards and/or they often cycle back through. When asked why private hospitals have not been utilized, the Secretary explained that many providers are hesitant when the criminal justice system is involved. Discussions with MDH have continued since the meeting, and Judge Davis assured everyone the issue is not being overlooked.

Criminal Procedure §3-106 says that a defendant found incompetent and a danger must be placed within 10 days of the finding, and if placement is not made, the court may sanction MDH to compel compliance. In an effort to hold MDH accountable, many attorneys have filed petitions for constructive civil contempt. However, caselaw exists that states once a party is placed there is no longer a need to compel compliance (*State v. Crawford*, 239 Md. App. 84, 109 (2018)). Many defendants are placed by the time a hearing against MDH is heard and therefore no relief is granted. Recently, a public defender filed 15 Notices of Violations in Baltimore County District Court for defendants held longer than 10 days. MDH did not respond to the notices, but attended the hearing. The attorney requested sanctions, but did not have any witnesses or testimony. Without any supporting information, Judge Davis denied the request, but anticipates attorneys will continue to file petitions and notices until the matter is resolved.

Next, Judge Davis provided an update on the Problem-Solving Courts Subcommittee, chaired by Judge Thomas Pryal. Last year, Justice Fader approved a Mental Health Court in the District Court of Maryland, Allegany County, and a DUI Court in the District Court of Maryland, Montgomery County. Other jurisdictions in various stages of problem-solving courts (PSC) include Frederick and Washington Counties (Veterans Treatment Court) and Garrett County (Adult Drug Court). There were only two PSC's in 1994, and, now, all counties but one offer a program. The Judiciary received a \$1.7 million grant from the Bureau of Justice Assistance (BJA) for a four-year cycle through September 30, 2025.

BJA grants also assisted in the statewide implementation of the Risk and Need Tool (RANT) in Adult Drug and Veterans Treatment Courts. Funds from BJA also helped procure a new PSC Management Information System, AIMS, which has the ability to communicate with MDEC and will replace SMART. This feature will be helpful when obtaining statistics and data.

The Risk and Need Pilot Program Workgroup met monthly to develop the Notice of Funding Availability for trial courts to apply for funding to pilot RANT. Three courts have been identified for the pilot program: the Circuit Court for Caroline County, the Circuit Court for Cecil County, and the District Court of Maryland, Harford County. The grant allows courts to utilize the RANT assessment as early in the process as possible. When looking at implementation processes, the workgroup experienced issues with federal funding based on violent offender prohibitions. Pilot courts had to consider how to implement RANT without violating the guidelines of not screening violent offenders. State funding does not have a violent offender prohibition.

Judge Morrissey noted these restrictions limit the population of those who could benefit from the services and asked if BJA has been contacted to discuss. Gray Barton, Director of the Office of Problem-Solving Courts, responded that BJA reviewed the matter with their legal department and determined the federal grant cannot be used before a legal screening and background check are

done. This practice started in the early 1990's and the federal government did not want to be seen as financially supporting violent offenders. Unfortunately, treatment courts tend to involve those with a history of violent offenses, such as weapons possession.

Mr. Barton continued by stating PSC managers perform site visits and routine assessments of best practices in every drug court across the state. The goal is to identify barriers to adherence, knowledge sharing, and setting goals for the next assessment. Each court has a dashboard that tracks adherence to best practices day to day and is monitored by PSC staff. The dashboard allows courts to see what areas are deficient and adjust accordingly. Courts that adhere more closely to best practices, such as drug testing on weekends and holidays, tend to have better outcomes. Somerset County recently asked for additional funding based on the success rate they found by complying more closely with best practices.

The original assessment was done in October 2020 and the most recent in October 2023. The results showed an average 17.5% increase in adherence to best practices. The first baseline showed an average of 77% compliance, but it should be noted that it was a self-assessment done by individuals in the court. A reassessment was performed a year later by PSC staff and found that many courts had either under or overrepresented the numbers. As a result, PSC adjusted the average to 75%. Currently, courts are at an average of 89% adherence rate to best practices. Mr. Barton commended Judge Heather Price and the staff in Caroline County for improving their adherence rate from 65% to 89% and becoming a model for how changes can be made. Staff took the data from the dashboard to community partners and requested help to make the necessary changes. Judge Davis noted she was pleased to see the positive perceptions of fairness results increased from 91% to almost 95% from 2022 to 2023. Mr. Barton agreed that it is important for the public to see that the judicial system treats them fairly.

The Maryland Statewide Evaluation of Adult Treatment Courts, a study issued in December 2022, found a 9% reduction in arrests over a two-year period. As a result, the programs saved the Department of Corrections \$21.4 million in costs. Local detention centers likely saved additional costs, but were not a part of the study. Judge Hecker stated he proposed a funding request to the county commissioners based on the cost-saving statistics gathered from the programs in Carroll County.

Judge Davis closed by highlighting the success of the 19th annual symposium held in November. Over 500 people enrolled and parties from every jurisdiction attended. Justice Fader was the keynote speaker and agreed the event was very inspiring. The panel of graduates expressed sincere gratitude for how the programs changed the course of their lives. It is a tremendous benefit for those who are able to take advantage of it, and the data is a critical piece to show what a difference it makes.

c. Education Committee

Judge Laura S. Ripken chairs the Education Committee, which oversees eight subcommittees and one workgroup following a shift in structure at the beginning of 2023. The committee offered 469 courses this year, with more than 75% available remotely. In total, more than 9,300 participants took advantage of these learning opportunities. Participation in self-paced courses increased 400% and the number of learners is balancing out since the end of the pandemic.

The Commissioner Education Subcommittee is chaired by Judge Patricia Mitchell. Over 280 commissioners attended the annual Commissioner Conference. Two 5-day Commissioner Academy programs served as foundational training for 34 new commissioners. The subcommittee routinely receives feedback from commissioners and continues to develop training based on the needs and requests.

The Diversity and Inclusion Education Subcommittee was transferred this year from under the Equal Justice Committee and is chaired by Judge Yolanda Curtin. The subcommittee is working with a vendor to modify an online course on *Unconscious Bias* and proposed a new course to Judicial Education on *Eliminating Roadblocks to Procedural Fairness*. Members of the committee reviewed the National Center for State Courts (NCSC) webinar on *Advancing Equity in the Administration of Justice through Inclusive Communication* and are in the process of drafting a *Facilitating Groups* Quick Reference Card through the lens of diversity, education, and inclusion.

The Human Trafficking Subcommittee is chaired by Judge Barbara Waxman and was previously elevated from being a workgroup. The subcommittee hosted several experts during meetings, including an Anti-Human Trafficking and SART (Sexual Assault Response Team) Manager, the Director of Forensic Nursing at Mercy Hospital, and an assistant state's attorney from Baltimore County to discuss restitution in human trafficking cases. The Human Trafficking bench card was recently updated and assisted the Rules Committee with implementation of the Safe Harbor and Service Response law (HB 297).

The Judicial Education Subcommittee is co-chaired by Judge Bibi Berry and Judge Stephen Sfekas. This year, 68 courses were offered with almost 2,000 participants, including magistrates. Members also facilitated the release of the quarterly online journal *Judicial Ethics for Judges & Magistrates*. In 2024, the subcommittee will launch a *Digital Evidence* two-day bootcamp and Criminal Law University. An on-demand resource is also being developed for administrative judges.

Magistrate Julie Minner chairs the Magistrate Education Subcommittee, which oversees the onboarding of new magistrates and tracks magistrate education. During the onboarding process, magistrates are equipped with the proper tools needed upon appointments and are assigned a mentor. The subcommittee is also working with Judicial Education to identify Family Law courses that may be beneficial to magistrates. The topic of this year's Magistrate Conference was *Finding Continuity in the Chaos* where 63 magistrates were able to attend with no attrition. Members of the subcommittee are also developing a magistrate bench book.

The New Trial Judge Mentor Subcommittee is co-chaired by Judge Michael Siri and Judge Richard Trunnell. This year, the subcommittee recruited 12 new mentors and matches three new trial judges. In addition, the subcommittee edited and revised chapters in the Mentor Resource Manual and adopted a new procedure for approving senior judge mentors. In 2024, the subcommittee hopes to finalize the Mentor Resource Manual and revise the online mentor and mentee orientations.

The Professional Development Subcommittee is chaired by Clerk Kevin Tucker. The subcommittee offered 118 courses with over 4,000 participants. Highlights for the year include the development of a 5-Star Customer Service course, as well as five new courses to support the Judiciary's new telework policy. Members also revised the New Employee Orientation course and the Judicial College's supervisor and manager training, which will be offered to District Court

managers in the coming months. The subcommittee plans to expand the number of courses offered in 2024.

The Technology Education Subcommittee is chaired by Clerk James “Bo” McAllister. This year, 155 courses were offered with over 2,200 participants. Several highlights include Senior Judge Technology Days, the annual Leadership Conference, and New Employee Technology Orientation for Judges and Magistrates, which was completed by 18 judges and seven magistrates. Other courses include Webinar Collaboration with Subject Matter Experts, MDEC-focused training, and Post-COVID Judicial Operations.

The sole workgroup reporting directly to the Education Committee is the Public Education and Community Outreach (PECO) Workgroup, chaired by Judge Jennifer Schiffer. In collaboration with Government Relations and Public Affairs, the Maryland Gavel Will Travel program was highly successful in educating 2,500 Anne Arundel County students on different civic education topics. Currently, members are working to expand the program to additional counties and private schools. Chief Judge E. Greg Wells participated in the Gavel Will Travel program along with 30 other judges. The feedback from students and teachers was very positive and word of the program is spreading. It was nice to be received so well by the schools.

Members of the workgroup also supported the Legal Careers Pipeline event at Glen Burnie High School and programs such as Georgetown University’s National Student Leadership Law Intensive Program, and a Law Day Panel event at Annapolis High School. In addition, the workgroup facilitated visits to the Supreme Court for Naval Academy Midshipmen and Prince George’s County Law Links program participants. Reading and Robes was held in September where judges visited students in Anne Arundel, Howard, Baltimore, and Prince George’s counties and in Baltimore City. Judge Ripken noted these programs would not be as successful without the support of GRPA and, specifically, Diana Kean, who staffs the workgroup.

Based on how successful these programs have become, Judge Ripken made an official request to elevate the workgroup to a subcommittee in hopes that they continue to impact the community. Judge Alan Wilner made a motion to elevate the workgroup and the motion was seconded by Judge Donine Carrington Martin. The Public Education and Community Outreach Workgroup was unanimously elevated to a Subcommittee.

Justice Fader expressed his appreciation for the efforts to reach the community and provide a positive experience for students. On November 3, 2023, the Supreme Court sat in the Circuit Court for Prince George’s County, which marked the first time the justices sat outside of Annapolis in 172 years.

2. For the Good of the Order

Justice Fader thanked everyone for attending. There being no further business, the meeting adjourned at 11:38 a.m. The next meeting is scheduled for January 24, 2024, beginning 9:30 a.m.