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JOINT MEETING OF THE  
CONFERENCE OF CIRCUIT JUDGES  
AND  
DISTRICT COURT CHIEF JUDGE'S  
COMMITTEE

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MINUTES OF THE JOINT MEETING OF THE CONFERENCE OF CIRCUIT JUDGES AND  
DISTRICT ADMINISTRATIVE JUDGES

A joint meeting of the Conference of Circuit Judges and the District Administrative Judges was held on Monday, September 19, 2022, at the Maryland Judicial Center and via Zoom for Government, beginning at 9:30 a.m.

**Members Present**

Hon. Keith Baynes, Chair, Conference of Circuit Judges  
Hon. John P. Morrissey, Chief Judge, District Court

Hon. Sheila R. Tillerson Adams  
Hon. James Bonifant  
Hon. Pamela Brown  
Hon. Audrey J.S. Carrión  
Hon. Melvin Jews  
Hon. Lisa Hall-Johnson  
Hon. Susan Hazlett  
Hon. Fred Hecker  
Hon. Geoffrey Hengerer  
Hon. Stephen Kehoe

Hon. Gerald Purnell  
Hon. S. James Sarbanes  
Hon. Eric Schaffer  
Hon. Brian Shockley  
Hon. Michael Stamm  
Hon. Barry Williams  
Hon. Dorothy Wilson  
Hon. Kathy Smith  
Burgess Wood

**Also, Present Were:**

Hon. Erin Danz  
Hon. Stacy Mayer  
Hon. Viki Pauler  
Hon. Eileen Reilly  
Hon. Richard Sandy  
Hon. Alan Wilner  
Hon. Brett R. Wilson

Amy Bosley  
Emily Burke  
Kevin Cox  
Nancy Faulkner  
Suzanne Pelz  
Kelley O'Connor  
Valerie Pompey

Secretary Robert Green  
Secretary Dennis Schrader  
Deputy Secretary Atif Chaudhry  
Assistant Secretary Webster Ye  
Mike Brady

Gillian Tonkin  
Roberta Warnken  
Sean Wolcuff

## **1. Welcome**

Judge Baynes welcomed attendees at 9:33 a.m., followed by a welcome by Chief Judge Morrissey. Chief Judge Morrissey noted that the joint conference is an opportunity for the judges to come together to discuss common issues. He noted that Carol Burkhardt with the District Court, Senior Judges division is moving to a job with ADR.

## **2. Maryland Department of Health Update**

Secretary Shrader, Asst. Secretary Ye, Emily Burke, and Atif Chaudhry provided updates from the Department of Health.

The large-scale pandemic is receding, but still present. There are approximately 400 to 500 individuals with COVID in the hospital. The effects of COVID are not over. The state currently has large stocks of PPE. Department of Health, like other employers, has been affected by the Great Resignation. There is a major issue in staffing in public and private hospitals.

Hospitals are back to pre-COVID admission levels. One hundred fifty new beds have been added since 2017. The state has old facilities and has recently divested some buildings, including working on the divestiture of Western Maryland Hospital Center. They are looking for new placements for patients. Department of Health monitors 900 individuals in the community on a daily basis. They cannot order the private sector to accept an individual.

The Department of Health is appreciative of the constructive relationship with the Judiciary.

Deputy Secretary Chaudhry detailed delays with admission and discharge caused by COVID. They are continuing to increase services and beds in facilities. He thanked the Judiciary for its patience. There are still individuals on the waitlist, and they are working diligently to get those individuals admitted.

Secretary Shrader noted that Marshall Henson was appointed to be the Department's first ever Operations Director. He is building a team to address discharge planning. The team is producing good results.

### **3. Department of Public Safety and Correctional Services Update**

Secretary Green thanked the Judiciary for its work, especially during the pandemic. He discussed his organization's role: they are responsible for the city jail, Parole and Probation, and Department of Corrections facilities in Maryland.

In the past year, the Department has seen a 40% decrease in the sentenced population. The pre-trial population is fairly stable in the city. Of the pre-trial population generally, 98% is held with no bond and there is an increase in the length of stay.

Parole and Probation has 548 agents managing 40,000 cases. The majority are criminal cases (82.5%). Most cases are straight probation cases.

The Department is focusing on services in jails to help make people successful. There is a strong focus on education and recidivism. They want to have services such as employment, community connections, and other needed services in place before a person is released. They are focusing on post-secondary education. The Department also distributed 7400 tablets (on a closed system) to give all inmates access to information. This allows individuals to better receive information about education options and other services. They also utilize posters and staff to make inmates aware of opportunities.

The pandemic was a difficult time for the Department. They administered 400,000 COVID tests, including over 150,000 to incarcerated individuals. They are participating in a study on COVID in incarcerated populations. They are looking at lessons learned to influence the next stage of corrections.

They implemented a substance misuse treatment program. The Department attempted to do this prior to COVID, but it did not materialize. The project is now moving forward and was awarded to two vendors.

The Office of Constituency Service was established by Rachel Sessa. This program is growing as the office seeks to ensure that they are responding to all needs.

Hiring within the Department continues to be an issue, though they are doing well compared to others. Their hiring requirements are driven by COMAR. They have several job events planned.

Chief Judge Morrissey noted that they are weeks away from transfer from commissioners to central booking. Additionally, Chief Judge Morrissey shared that two of the three home detention companies have received their tax IDs. The process has not been easy, but the clerks are working hard on the process, so that the providers can get paid.

#### **4. Rules Committee Update**

Judge Wilner reported that the summer is typically slow, but this year was very active. Nine subcommittee meetings were held since June plus two full committee meetings. Additionally, one large report and two supplements were issued.

For the 211<sup>th</sup> report, there will be an open hearing before the Court on September 29<sup>th</sup>. There are 13 categories of Rule changes.

Substantive changes include:

- Category 1: Rule 2-402 deals with discovery in civil cases to conform with Federal Rule 26 to preclude discovery of draft expert reports and communications between council and experts. Compensation and data provided to the expert are not exempt.
- Category 2: amendments to Rules to keep a District Court summons alive for 60 days as opposed to 30. There is often difficulty in serving these summonses out of state, so the extension will address this issue, making District Court summonses the same as Circuit Court summonses.
- Category 3: amendment to Rules 3-533, 3-534, and 7-104 to deal with statutes in the Real Property article that require appeals in certain landlord tenant actions to be noted in less than 30 days. One requires appeal to be noted within 2 days of judgment. Another is 4 days of judgment and others within 10 days of judgment. No comments received thus far, but the Committee expects to hear dissention.
- Category 4: Rule 9-205 deals with child custody disputes. Change will create and define new definition of coercive control; abuse that would make mediation inappropriate. Recommended by the Domestic Law Committee and referred to Rules Committee by Court of Appeals.
- Category 5: Rule 15-901 restructuring and new Rule 15-902 to deal with declarations of gender identity and changing the names of children in connection with this declaration. There is a new 2022 statute that supports the change, and the change was recommended by the LGBTQ+ family law workgroup.
- Category 6: Title 14 foreclosure Rules. Implementing the 2021 statute allowing foreclosure due to local tax delinquency.
- Category 7: Eliminates retaining an attorney lien as inconsistent with the Rules. It follows similar action in DC and Virginia.
- Category 8: Amends Rule 11-406 to implement a 2022 statute on detention of juveniles.

- Category 9: amends a cross reference.
- Category 10: amends Rule 11-219 to deal with juvenile permanency plans that provide an alternative living arrangement for a child.
- Category 11: Rule 11-112 addresses papers that are in a foreign language. The Committee is working with the Court Access Committee. Over 100 spoken languages in MD, thus far, the 6 most common ones have been addressed.
- Category 12: Rule 16-702 – a request to restructure the Conference of Circuit Court Judges.
- Category 13: amends Rule 1-102 to eliminate authority to appoint bail bond commissioners and license bail bondspersons.
- Supplements
  - 1<sup>st</sup> supplement: Rule 18-203 to add two members to Judicial Ethics Commission. One more Circuit Court Judge and one Senior Judge.
  - 2<sup>nd</sup> supplement – 19-301.16 and 19-604 to require abandoned funds in attorney trust accounts and abandoned funds held by CPF to be transferred to Comptroller’s abandoned property fund. COA directed the Rules Committee to make the change.
- Additional updates:
  - Two Rules Committee meetings, one in June and one in September. In October, the Committee will submit the new Rules to the Court of Appeals.
  - Rule 1-104 – unreported opinions of COA and COSA and when those opinions can be cited.
  - Rules 1-322.1 and 3-306 – to delete requirement of including last 4 digits of SSN in filings.
  - Rules 3-113 and 3-306 – to require confirmation of a defendant’s military status when seeking renewal of a summons issued in an affidavit judgment.
  - Access to electronic recordings of court proceedings – except for parties and judicial officials, prohibiting the public from getting a copy of a hearing, but allowing them to listen to it and make notes in a special room in a courthouse. Trying to deal with a matter that COA sent to Rules Committee dealing with who can get copies of an electronic recording. For those who can get copies, what they can do with the copies. There is

already a pending lawsuit that went to the Fourth Circuit and was sent back to US District Court of Maryland to deal with what a person who gets a copy of a hearing can do with it. No action has been taken on it yet, pending Fourth Circuit determination.

- Expecting a report from Judge Wells' committee on Rules and implicit bias. May be over 100 Rules that need to be examined. The report will be submitted first to the Judicial Council for consideration and if Judicial Council approves it, then to the Rules Committee.
- Request to make bench books public. The COA has not been willing to do this thus far. Recently a legislator's chief of staff contacted the Rules Committee indicating that there was a statute passed by the legislature this year requires that bench books be made public and asked the Rules committee to propose a Rule to address it. The individual was invited to meet with the Rules Committee. The individual indicated that they would present this at the Court's hearing on September 29th. A review of the statute does not appear to address bench books. The committee has always taken the position that bench books are not public. They are historically prepared by one or more judges on their own time under the auspice of someone.

## **5. Active Shooter Program and Security Updates**

Mike Brady detailed that the courts have conducted active shooter training. In service trainings are held annually, providing information and hands on instruction. ADD (Avoid, Deny, and Defend) was implemented in 2016. This month 14 trainings will occur in District Court. Last month, over 100 were conducted in Rockville. The training is usable in many situations, not just the courthouse.

Blood control kits have been installed in courthouses. These can be used for a variety of emergencies from an active shooter situation to someone who is injured in a fall. Ballistic shields have been placed in District Courts (these are the same shields used by local law enforcement). Bailiffs have all been provided the option of having a ballistic vest.

Sean Wolcoff detailed that 306 members of bench enrolled in digital tracking/footprint minimizer. SPOs have also received extensive active shooter training. SPOs are certified in Civilian Response to Active Shooter Events (CRASE) – they are also working with the Sheriff's Office to share programs with them. A "Stop the Bleed" program was implemented to help stop the death of injured persons. The program is being incorporated into the active shooter program. The goal is for courthouse staff to have the skills to save lives until first responders arrive to assist. It can be applicable to a number of situations, not just an active shooter. Emergency

Response posters will be available to court partners. The posters will guide the user on how to respond to many major hazards.

Judge Carrion noted that judge/magistrate and staff trainings are held on separate days. Chief Judge Morrissey noted two incidents in Baltimore County, which have prompted them to add more bullet proof glass/fortification to District Courts. Judge McKenna detailed incidents in Glen Burnie at/near the courthouse. Mike Brady indicated that there was a great response from bailiffs at District Court in those situations. Related to courthouse security, Chief Judge Morrissey plans to start capital assessment of District Courts in 2023.

## **6. Legislative Update**

Judge Mayer presented the legislative update. During the 444<sup>th</sup> legislative session, 243 bills were passed, of which 18 were vetoed.

Action included:

- HB1/HB 837 -- legalization of the adult-use of cannabis will be a constitutional amendment and will appear on the November ballot. If the referendum passes, the change will go into effect in July 2023.
- SB775/HB208 – increased the jury per diem to \$30 beginning on October 1, 2022.
- HB176 – Court service of process fees will increase some fees from \$40 to \$60: for Sheriff's service of a paper not including an execution or attachment and papers arising out of administrative agency proceedings where the party requesting service is not a governmental entity. Fee for service of breach of lease, tenant holding over, warrant of restitution, wrongful entry and detainer, or order of levy in distress will remain \$40.
- HB1448 – provides District Court with concurrent jurisdiction with a governing body of a county over adjudication of a violations of certain ordinances.
- SB585 – modifies the definition of absconding.
- SB17 – mandatory Judicial training for judges presiding over child custody cases involving child abuse or domestic violence, with a delayed effective date of July 1, 2024. The Judiciary opposed the bill saying that it violates the separation of powers by specifically prescribing a judicial training requirements. Chief Judge Fader has a group looking at the requirements of training for these types of cases. The Education Committee is looking at this to see if we are missing any components that are necessary.
- SB328/HB148 – expands definition of stalking to include electronic communication and tracking.

- SB280/HB296 – allows a petitioner to electronically file a petition for a temporary protective order with the assistance of an advocate in certain locations.
  - Chief Judge Morrissey indicated that clerks are working on the finalizing the process. He does not expect a large number to be filed in this manner.
- HB817 – prohibits a conviction under §4-509 of the Family Law Article from merging with a conviction for any other crime based on the act establishing the violation.
- HB210 -- If a person marries after a crime occurred, they cannot assert spousal privilege.
- SB20/HB 284 – Tender years doctrine. Governs hearsay admissions of children who are victims of a crime. Doctrine expanded to include a case alleging neglect or a crime of violence.
- SB691/HB459 – numerous changes to the juvenile justice process, including limitations of charges that can be levied against a child under 13, alters the use of information adjustments; and establishes limits on terms of probation, the use of detention, and out of home placements.
- SB53 – except for imminent and immediate threat for need of interrogation, prohibits law enforcement from conducting a custodial interrogation until the child has consulted with an attorney and law enforcement makes efforts to give actual notice to parent, guardian, or custodian. Vetoed by Governor Hogan, but the veto was overridden.
- HB521 – shielding of failure to pay rent actions.
- SB203 – adds additional requirements for hearings to review the permanency plan of a Child in Need of Assistance who is in an out-of-home placement, Change was made in order to bring the State into compliance with the federal law.
- SB508/HB808 – alters circumstances under which a court may appoint a guardian of the person for an unmarried minor.
- HB83 – repeals provisions that allow minors aged 15 and 16 to marry and expands the procedural requirements that must be satisfied before an individual aged 17 may marry.
- SB763 – requires MSCCSP to include in its annual report certain sentencing information.
- HJR3/SJR4 – increased judicial salaries by \$40,000 (\$10,000 per year) for FY 23 through 26.



- Chief Judge Morrissey noted that cases with juveniles are shielded until the waiver hearing. Proceeding is open, but record is confidential – Chief Judge Morrissey indicates perhaps Judge Wilner can provide guidance on whether recording of proceeding is confidential.
- Bills vetoed by governor included bills on small claims, stay of landlord tenant proceedings, and rental licenses.

## 7. MDEC Update

Chief Judge Morrissey noted that Prince George’s County will go live on MDEC on Oct. 17, 2022. Training is occurring now. The issue regarding cash registers appears resolved. Baltimore City implementation is next, and the process is underway. There are new matters with Baltimore City: the asbestos docket and a unique juvenile case management system.

The pilot of Landlord Tenant e-filing continues. One of the larger e-filing providers is serving as tester for program. It is unclear when it will be rolled out to other counties as there appears to be an ongoing filing issue on the e-filer side.

## 8. Legal News

Kevin Cox with the Attorney General’s Office provided updates on legal news.

Courthouse News Service (CNS) – all courts, except non-MDEC jurisdictions, as well as the State Court Administrator are named as defendants in a lawsuit. The issue is timeliness of court docketing and the right to receive public information. The AG’s Office is representing the Judiciary. CNS uses Judiciary information to provide reports to attorneys to generate business. The organization requested a Press Queue that is provided by other states. CNS alleges that the delay caused by clerks having to review documents is a violation of the First Amendment.

In the *Schaeffer* case, the Court held that the complaint should be available as expeditiously as possible. Currently, complaints are docketed within 4 hours 90% of the time. It is less than 7.5 hours 99% of the time. There is a hearing scheduled in October before Judge Hollander.

The *Abell Foundation* ruling was 5 to 2 against AOC. The case concerned Administrative Judicial Records (Rule 16-913(d)). A request was made for information on key codes to identify judges. The Court of Appeals held that the administrative records exception does not apply (not a confidential communication). The Court indicated that courts should start with premise that information is public, then look at Rules. Courts were advised to look at it from a commonsense perspective.

The *Richardson v. State* case is not published, yet, and it was a 7 to 0 decision. Without a warrant, an officer opened a backpack that was dropped after a robbery and found, amongst other items, 3 phones. A warrant was issued for the phones. The owner of one of the phones was linked to an armed robbery. The victim's phone was also in bag. The Court said the backpack search was not a violation (abandoned property). The cell phone search, however, was problematic. The Court said the search was a violation because it did not describe with enough particularity the item to be searched. The "any and all" clause was problematic. Courts must limit officers to what is reasonably necessary – there are limitations on the applications to be searched. Essentially, cannot simply say "search everything," but rather the warrant should be specific as to what areas/apps are to be searched.

There being no further business, the meeting adjourned at 12:22 p.m.

Respectfully submitted,

Nancy Faulkner  
Conference Secretary