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**Conference of Circuit Judges**  
COURTS OF APPEAL BUILDING  
ANNAPOLIS, MD 21401

**MINUTES OF THE MEETING OF THE  
CONFERENCE OF CIRCUIT JUDGES**

A meeting of the Conference of Circuit Judges was held Monday, January 8, 2018, at the Judicial College Education and Conference Center in Annapolis, Maryland, beginning at 9:35 a.m.

**Members Present**

Hon. Kathleen Gallogly Cox, Chair

Hon. Brett W. Wilson  
Hon. Keith A. Baynes  
Hon. Stephen H. Kehoe  
Hon. Mickey J. Norman  
Hon. W. Timothy Finan  
Hon. Viki M. Pauler  
Hon. J. Barry Hughes  
Hon. Laura S. Kiessling, Vice Chair

Hon. Theresa M. Adams  
Hon. Robert A. Greenberg  
Hon. Sheila R. Tillerson Adams  
Hon. Marjorie L. Clagett  
Hon. Audrey J.S. Carrion  
Hon. Amy Craig  
Pamela Harris  
Douglas Hofstedt

**Also, Present Were:**

Hon. John P. Morrissey  
Faye Gaskin  
Tyler Jones  
Nadine Maeser  
Kelley O'Connor

Eliana Pangelinan  
Suzanne Pelz  
Thomas Wenz  
David Lashar

**1. Approval of Minutes**

Judge Cox called for approval of the minutes of the November 20, 2017 meeting. Judge Sheila Adams moved for approval of the minutes, which was seconded by Judge Hughes. The motion passed.

## 2. Maryland Department of Health Update

David Lashar, Senior Transformation Executive, Maryland Department of Health (the Department), briefed the Conference on changes within the Department instituted to improve the timeliness of court-ordered placements and evaluations. He noted that Robert Neall had been appointed to serve as the Acting Secretary of the Department, while Dennis Schrader serves as the Chief Operating Officer and Medicaid Director.

Mr. Lashar commented that the Department is using technology to enable transformation. As such, an automated system has been developed that allows for the generation of management reports that leads to more effective tracking and more informed decision-making. He noted that in Fiscal Year 2017, there were 2,788 Title 3 evaluations with 882 admissions. During the same period, there were 1,539 8-505 and 8-507 orders received. Mr. Lashar stated that the Title 3 wait list and cycle times have decreased by half since March, which he attributed partly to the availability of management reports. He added that while the wait list and cycle times have decreased, the Department is working to expand its capacity in anticipation of the spike that often occurs during the spring and summer months.

Mr. Lashar stated that the Department is meeting the 21-day requirement for 8-507 placements approximately 90 percent of the time. He noted that during October and November, for approximately 40 percent of the orders, more than four days lapsed between the time the order was issued and the Department received the same, with the greatest delay reported to be 19 days. Mr. Lashar is working to have the orders transmitted electronically in an effort to reduce the delays. As electronic transmission is being explored, Mr. Lashar asked that the courts submit the orders via email. Other issues affecting cycle times noted by Mr. Lashar included detainers in other jurisdictions, errors in court orders, and release of the defendant on his or her own recognizance.

Mr. Lashar then discussed the various hospitals in which defendants are placed, stating that the Department is working to ensure that individuals are appropriately placed to ensure proper service. He also stated that the Department reallocated about 100 vacant positions and received 20 new positions to support additional beds, as well as existing priorities within the hospitals. Judge Greenberg raised a concern from the Sheriff's Office regarding the Department entering into a contract with Adventist Hospital without the court's knowledge. The gist of the concern is that dangerous individuals are being placed in Adventist, which is a civilian hospital. He added that the Department needs to take such factors into consideration when partnering with hospitals. Mr. Lashar responded that the Department is working on logistics to ensure that defendants are properly placed and to better manage the system.

The discussion then moved to the restructuring of the Department for greater accountability and improved service. There now is a centralized admissions office with a single point of contact. All orders and associated communication from the courts should flow through that office. (Note: Cards with the contact information were emailed to all courts.) In addition, as a result of restructuring, the hospital facilities are managed by one deputy secretary so that they can be more effectively managed as a system rather than individual hospitals. The Department has engaged a number of stakeholders to recommend an evaluation method for competence to stand trial and criminal responsibility. In addition, the Department has revised its policy for triaging and prioritizing individuals for placement. As alluded to earlier, the Department

implemented a new tracking and management system that provides a number of reports to monitor cases through their lifecycle and track performance against the 21-day requirement.

Mr. Lashar stated that the Department's current priorities are bed expansion, customer service, and stakeholder partnership. He added that the Department wants to continue to execute and to be accountable.

Judge Wilson and Judge Norman stressed the importance of the Department focusing on the quality of the treatment as it continues to perfect its tracking system. Both indicated that they had defendants express concerns with the treatment regimen when they returned to court. Mr. Lashar commented that rather than licensure, the Department is moving toward accreditation for its behavioral health facilities, which it believes will lead to improved quality of service. Judge Wilson suggested that the Department develop a mechanism by which to gather feedback from the individuals served and that the focus not merely be on processing people through the system.

Judge Cox thanked Mr. Lashar for his update and all the Department is doing to improve.

### **3. Designated Mental Health Judge**

Judge Cox solicited feedback from the Conference regarding whether there should be a policy for each court to designate a lead mental health judge, noting that the judge would serve as the point of contact for the Department. She added that, currently, information is sent to the judge who signs the order although the case may not be that judge's responsibility, which could lead to a lack of or delayed follow-up. Often, the chambers judge signs the orders. She added that there needs to be a better system of communication between the courts and the Department. The designated judge and his or her staff would have a greater understanding of the process, including the importance of timeliness and could funnel the information to the appropriate judge.

Judge Norman asked for more clarification regarding the responsibilities of the designated mental health judge. Judge Cox responded that the judge would be the point of contact for the Department for things such as process questions/problems and untimely orders. Judge Kiessling added that the judge would serve as a resource for both the court and the Department. Judge Hughes stated that having a designated judge could raise the awareness of the issues with all judges. He suggested that a workgroup be formed to more clearly define the responsibilities of the designated judge. Judge Kehoe agreed to work with Judge Hughes to develop a structure and to present the draft roles and responsibilities at the March meeting. Judge Cox added that maybe it should be a point of contact rather than a lead or designated judge and also that it should be someone who understands Title 3 processes.

Judge Theresa Adams asked if courts are still sending letters of intent to the Department for future orders. Judge Cox stated that the Department requested that the letters not be sent and that when the order is signed, the Department will send a letter advising when a bed is available. Mr. Lashar added that the challenge with the letters is that their usage is not consistent. He added they will, hopefully, become less necessary with the new processes that have been put in place. Mr. Lashar commented that the Department wants to continue to receive communication and that it will not hurt to provide advance notification that an evaluation may be needed. He stated that having a point of contact in the courts, as well as within the Department would be helpful for such matters.

#### **4. Jewish Holidays and Trial Dates**

Judge Cox brought to the attention of the Conference, for information only, a letter from Judge Karen Friedman to Chief Judge Barbera on behalf of the Simon E. Sobeloff Jewish Law Society wherein she expresses concern regarding the problems the members have experienced when seeking postponements on Jewish holidays. In her letter, Judge Friedman cites *Neustadter v. Holy Cross Hospital of Silver Spring*, 418 MD 231 (2011). Judge Hughes stated that he has not had any issues, but he would not want the clerk to block out every conceivable holiday, adding that often there are late requests for postponements and that attorneys should know of such conflicts at the time of scheduling. Judge Kiessling asked that everyone be mindful that the court is not always aware of everyone's religious holidays and that they should be considered when postponement requests are made.

#### **5. Bench Warrant Execution in Other Jurisdictions**

Judge Pauler inquired as to whether courts are experiencing problems with their Sheriff's Offices retrieving defendants from other jurisdictions. She stated that the Washington County Sheriff's Office sometimes is not given enough time to pick up defendants from other locations, adding that there have been times when defendants were released because the Sheriff's Office was not able to make it to the arresting county in the prescribed time period. Judge Theresa Adams stated that the Sheriff's Office in Frederick County experiences the same thing about five times a year, usually in Baltimore City. Judge Sheila Adams recently experienced a prisoner being released by the Montgomery County Sheriff's Office. She suggested that judges add language to the warrants stating that if the defendant is picked up by a county other than the originating county, then the arresting county has to hold the defendant for 72 hours.

Judge Norman suggested that the problem be dealt with through the Sheriff's Association because the Conference has no authority in this area. Judge Pauler responded that while law enforcement works to address the problem, the courts' orders are being ignored in the meantime. Judge Theresa Adams volunteered to research the issue to determine if there is a statutorily prescribed timeframe within which arresting counties have to abide. Judge Clagett commented that it should be professional courtesy within law enforcement. Judge Cox will extend an invitation to the Sheriff's Association to attend the next Conference meeting to discuss the matter.

#### **6. For the Good of the Order**

Judge Cox briefed the Conference on the *Administrative Order Approving Process of Application for Certification of Former Judges for Recall* issued by the Court of Appeals on December 14, 2017. The order formalizes the process for certification of a senior judge for recall service, which includes the completion of an application every three years.

Discussion ensued regarding the senior judges contacting administrative judges requesting approval to serve as a recalled judge in their respective circuits. The senior judges are required to get a letter from the administrative judges accepting them for service. Because it's done at a circuit level, the Conference expressed concern that circuit administrative judges may not be familiar enough with the senior judge to make that decision, yet it is a requirement. Judge

Greenberg noted that the new application is somewhat ambiguous about whether the administrative judge has to write a letter. Further, it does not indicate that the senior judge's service has to be initially approved by the administrative judge. Judge Clagett suggested that the Court of Appeals solicit feedback from the administrative judge rather than having the senior judge make the contact.

Judge Cox asked the Conference to review the process and be prepared to discuss any suggested changes at the next meeting.

As a carryover from the November meeting, Judge Cox asked the Conference to review 2-507 practices in their circuits to determine if there is a systemic problem with issuing the notices. The matter will be placed on the agenda for discussion at the next meeting.

### **Action Items**

- Judge Hughes and Judge Kehoe will develop a job description and best practices for the designated point of contact for the Maryland Department of Health to be presented at the March meeting.
- Judge Theresa Adams will research any statutorily-prescribed time frames for law enforcement to hold defendants on bench warrants if they are not arrested in the originating county. Judge Cox will invite the Sheriff's Association to the next meeting to discuss the matter.
- Conference members to review the issuance of 2-507 notices with the courts in their circuits to determine if there are any issues. The matter will be discussed at the next meeting.
- Conference members to review the approval process for recalled judges, along with any suggested changes for discussion at the next meeting.

There being no further business, the meeting was adjourned at 11:00 a.m. The next meeting will be held on Monday, March 19, 2018, at the Judicial College Education and Conference Center in Annapolis, Maryland. The meeting will begin at 9:30 a.m.

Respectfully submitted,



Faye D. Gaskin  
Conference Secretary