



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

Pamela Harris
State Court Administrator

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

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

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Meeting Minutes
March 22, 2023

Judicial Council Members Present:

Hon. Matthew J. Fader, Chair
Hon. Donine Carrington-Martin
Hon. Audrey J.S. Carrión
Hon. Karen Christy Holt Chesser
Hon. Kathleen Duvall
Nancy Faulkner
Hon. Jeffrey S. Getty
Kristin Grossnickle
Pamela Harris
Hon. Fred S. Hecker
Kathy Hefner

Hon. Geoffrey Hengerer
Hon. James Kenney, III
~~Stephanie Medina~~
Hon. John P. Morrissey
Hon. Bonnie G. Schneider
Hon. Shaem Spencer
Lara Stone
Hon. Kevin Tucker
Roberta L. Warnken
Hon. E. Greg Wells
~~Hon. Alan M. Wilner~~

Others Present:

Hon. Angela Eaves
Hon. Vicki Ballou-Watts
Hon. Dan Friedman
Hon. Cathy Serrette
Hon. Michael Stamm
Hon. Robert Taylor
Hon. Brett R. Wilson
Rich Abbott
Robert Bruchalski
Melissa Canada

Hope Gary
Lou Gieszl
Warren Hedges
Abigail Hill
Sarah Kaplan
Pam Ortiz
Valerie Pompey
Sharon Reed
Nisa Subasinghe
Gillian Tonkin

A meeting of the Judicial Council was held on Wednesday, March 22, 2023, at the Maryland Judicial Center, beginning at 9:30 a.m. Chief Justice Matthew Fader opened with a reminder that the meeting was being livestreamed on mdcourts.gov. He welcomed those attending and stated that the Council is an essential part of ensuring justice across the state. Justice Fader then moved for approval of the minutes from the January 25, 2023 meeting, which were adopted by general consent.

Justice Fader introduced the members of the Rules Review Subcommittee, which operates under the Committee on Equal Justice. The subcommittee was formed to identify Maryland Rules and court practices that are perceived to create systemic racism and contribute to implicit bias. He provided a brief history of the committee and applauded Chief Judge Barbera for recognizing the need to strengthen the Judiciary's commitment to equal justice for all.

1. Rules Review Subcommittee Report

Chief Judge Greg Wells, past Chair of the Committee on Equal Justice, added that the committee was formed in 2020 in the wake of civil protests across the country. Judge Dan Friedman took the lead on addressing the Rules and his team put an enormous amount of work into completing their final report. Judge Wells added that he is very proud of the Rules Review Subcommittee and thanked them for their dedication.

As Chair of the Rules Review Subcommittee, Judge Friedman went on to explain that there were 15 members prior to completing its mission and sunset in June 2022. The members included judges and magistrates and reflected a diverse and wide range of demographics. There were three workgroups formed: the Public Survey Workgroup, chaired by Justice Angela Eaves; the Public Meeting Workgroup, chaired by Judge Donine Carrington-Martin; and the Report Writing Workgroup, chaired by Judge Robert Taylor.

- a. **Public Survey Workgroup.** This workgroup, with the help of Administrative Office of the Courts (AOC), distributed a survey to justice partners in an effort to identify instances of unequal justice within the Judiciary.
- b. **Public Meeting Workgroup.** This workgroup held public meetings throughout the state, often via Zoom, as an opportunity to interact and educate the community on the services offered by the courts. One important takeaway was that remote access allowed the workgroup to reach communities across the state more easily. Some meetings were well-attended, while others were not. The workgroup made a conscious effort not to narrowly define terms such as “systemic bias” and received comments regarding immigration status, language barriers, mental and physical disabilities, poverty, and gender orientation.
- c. **Report Writing Workgroup.** This workgroup worked hard to provide the final report based on information gathered from the two previously mentioned workgroups. The Subcommittee voted on the report to ensure that everyone agreed with the final recommendations.
- d. **Evaluation.** The workgroup received over 200 comments, many of which were carefully written and researched, including previous suggestions from the criminal defense bar that were not adopted. The responses and transcripts from the public meetings make up a large majority of the report and effort was made to avoid repeat suggestions. Ms. Valerie Pompey did an excellent job collating responses for everyone to access.

Study memos were prepared by each judge, by several students at the College of Southern Maryland, by Professor Meneka Sinha at the University of Maryland, Francis King Carey School of Law and by Professor David Jaros at the University of Baltimore School of Law. The memos included the origin of each comment, anecdotal evidence of the problem, the history of the Rule, interpretation and local variation of the Rule, social science background, and academic legal research such as “what does a law professor have to say about the best way to interpret this Rule?”. Other states’ surveys and best practices were also reviewed and included in the report.

Several complaints were submitted where people experienced perceived implicit systemic bias by the use of local rules. Md. Rule 1-102 prohibits the use of local rules and, therefore, it is believed this issue can be resolved with judicial education or Rule amendment.

Judge Friedman acknowledge that criticism of the report will come from both sides, which is fair and appropriate considering “nobody got everything” they wanted. The recommendations are not expected to solve systemic bias but to provide guidance for adjustments that will help. The report also attempts to avoid recommendations involving legislative issues.

The Subcommittee had a presentation from Nina Chernoff, a professor at City University of New York Law School, about how to improve jury cross-sections. She hypothesized that jury pools are generally made up of wealthier, whiter, and more conservative members of the public, which can be detrimental to victims. The report makes minor recommendations for the Jury Subcommittee to consider, including signage and architectural considerations for multi-lingual courthouses. Although the committee anticipated many comments regarding jury instructions, none were received. However, the report makes one recommendation to consider adopted admissions by a jury and other exceptions to the hearsay rule.

Other recommendations involve the use of masculine and feminine pronouns. Many Rules have changed over the years based on the events of that time period and have become increasingly less biased against women. The report recommends improving language to be more inclusive when referring to judges, litigants, etc., and anticipates that these changes will continue to evolve.

The Rules Subcommittee will ask the Judicial Council to approve the report as a whole rather than by each recommendation. Per Judge Wells the report has not been released to the public, but the Rules Committee is ready to review it upon approval.

Judge Friedman thanked Justice Eaves, Judge Carrington-Martin, and Judge Taylor for leading the workgroups, and Ms. Pompey for her incredible administrative support. He continued by thanking Judge Wells and Judge Vicki Ballou-Watts for taking over as chair of the Equal Justice Committee. Rules are not permanent, and it is important to continuously deliver on our promise to ensure pathways to justice.

Judge Taylor added that he would be happy to answer why the workgroup did or did not make specific recommendations. Justice Eaves also thanked Jamie Walter and her team for developing the surveys that began the process for providing this report. Judge Ballou-Watts commended all of the subcommittee members throughout such an intense process, and Judge Wells thanked Judge Friedman for his guidance on the entire project. Ms. Pompey thanked JIS and the Technology Education Subcommittee for assisting during the listening sessions and helping everyone adjust to remote meetings. Judge Audrey Carrión further praised the Rules Subcommittee members for being as thorough and dedicated as they were and seeing this project through.

Following a request for questions, Justice Fader asked how the recommendations would be handled for entities outside of the Rules Committee if the report is approved as a whole, such as the General Assembly. Judge Friedman explained that the recommendations, upon approval, would be referred to Judicial Council Committees based on the issue. For instance, a recommendation involving the General Assembly would be referred to the Legislative Committee.

Justice Fader expressed his appreciation for everyone involved in the report and for adhering to our mission to provide justice for all.

e. Recommendation. On behalf of the Rules Review Subcommittee, Ms. Pompey requested approval of the report for referral to the Rules Committee and any other Judicial Council Committee, as necessary. Judge Kenney motioned for approval, followed by a second from several other members. After hearing no

objections, Justice Fader announced that the Judicial Council accepted the recommendation that the Rules Review Subcommittee Report be referred to the Rules Committee and any other committees, as appropriate.

2. Court Access Committee

Judge Brett R. Wilson spoke on behalf of the Court Access Committee and thanked everyone for their work within the Council. He went on to give special recognition to Judge Pamela White (not in attendance), chair of the Accessibility and Accommodations Subcommittee, for her hard work this year, despite having retired.

Judge Wilson explained the Access & Fairness Subcommittee was sunset, but the mission of racial justice will continue through the Court Access Committee.

- a. ***Accessibility and Accommodations Subcommittee.*** The Subcommittee is working to implement the new *Guidelines for Readers & Scribes* and *Guidelines for Visual Interpreters*. In addition to being added to bench cards, information about the guidelines have been included in the New Clerks Orientation and shared with ADA coordinators across the state. An Accessibility Toolkit can be found on Courtnet and on the Accommodations page of our website. The goal is to have assistance available for all litigants to fully participate in court functions.
- b. ***Disability Inclusion Workgroup.*** Last fall, the Judicial Council approved the report and recommendations of the Disability Inclusion Workgroup. Since that time, Access to Justice began working with Human Resources and Government Relations and Public Affairs (GRPA) to create methods that increase the talent pool to include persons with disabilities, and to enhance outreach and communications to people with disabilities. Among other things, job announcements will be distributed to organizations for persons with disabilities and a tip sheet on recruiting for diversity will be created for hiring managers. In addition, Access to Justice plans to award funding to three circuit courts interested in creating a position for a Diversity, Equity, and Inclusion Coordinator.
- c. ***Language Access Subcommittee.*** A report titled *Language Services in the Maryland Courts* is available on our website showing that the decrease in interpreter assignments during COVID shifted and is now back on the rise. The report includes data on how the courts meet the needs of persons with limited English proficiency and an appendix for local jurisdictions containing details about their use of interpreters in FY22.

A pilot program for Virtual Remote Interpreters (VRI) was successfully completed in Anne Arundel County, and equipment will soon be distributed throughout the state. The VRI program expands the pool of interpreters that can be available almost immediately. The use of iPads with headphones in the courtroom will allow interpreters to translate simultaneously, rather than consecutively, which will reduce the length of hearings. The program is reportedly more successful for short hearings, such as motions or status hearings. Courts in the most rural areas will benefit the most because cases in those courts are commonly delayed because of the lack of an interpreter due to distance, weather, etc. Washington County has utilized many unique language interpreters. Ms. Pamela Harris pointed out that the equipment is already available in courtrooms via Polycom. In addition, there is pending legislation regarding interpreter certification that will decrease the cost to the courts.

Judge Wells inquired when the VRI program will begin implementation around the state. Ms. Harris replied that the matter is being discussed with the Conference of Circuit Judges next week and collaboration between the courts and JIS will begin. Judge Shaem Spencer noted that he utilized VRI and was very pleased with how smooth and efficient the communication was without the back-and-forth dialogue commonly seen with interpreters.

Judge Wilson discussed a recent survey conducted among judges and magistrates to gauge their impression of the services provided by in-person interpreters in their courtrooms. The workgroup received over 300 overwhelmingly positive responses, reflecting a high level of professionalism among interpreters. A large number of responses showed many judges were unaware of procedures, including interpreter feedback forms specifically for judges. Moving forward, it will be important to focus on educating courts about the programs and procedures available to them. Ms. Harris added that the Language Access Subcommittee reviews the complaints and concerns, and she encouraged everyone to utilize the Toolkit on our website under “Language Services”.

- d. Self-Represented Litigants Subcommittee.* Judge Carrión, the chair of the Self-Represented Litigants Subcommittee, provided an update on accomplishments in the last year. A recent report titled *Resources for the Self-Represented in the Maryland Courts* showed an impressive growing trend in the number of people utilizing the services of the court help centers and law libraries. There is a new Maryland Court Help app available for mobile devices and outreach, such as billboard ads, to help increase the public’s awareness of the services available to them. Access to Justice is also in the process of launching a Spanish-language radio campaign to promote awareness of the Maryland Court Help Centers.

Other resources for self-represented litigants include Guide & File forms tools, online video libraries, and webinars. These services help streamline the process and can make a significant difference in how people experience the justice system. Another goal of the subcommittee is to expand the pool of trained attorneys who are ready and willing to help.

Mr. Kevin Tucker explained there is a help center located in the Washington County law library that provides assistance and helps take the pressure off the clerk’s office staff. Judge Jeffrey Getty expressed interest in adding a help center to the Allegany County Circuit courthouse, as well.

Ms. Harris thanked Judge Wilson for initiating the idea of a stand-alone self-service center in his court and pointed out that even if a staff member is not available onsite, there is a way to video conference for remote assistance. In addition, there are many videos available for the public online and several more are in production, including guidance on remote proceedings and e-filing, as well as tip sheets. Justice Fader confirmed the online videos have been extremely helpful and are frequently utilized.

3. **Domestic Law Committee**

Judge Cathy Serrette spoke on behalf of the Domestic Law Committee.

- a. Domestic Violence/Peace Order Subcommittee.* One new workgroup was formed to explore whether email addresses can be shielded in a case. The workgroup is working to create a way for the information to remain shielded, but still be accessible by the court. Another new workgroup focuses on whether a peace order can be filed on behalf of a minor. In addition, the Maryland Judge’s Domestic Violence Resource Manual and bench cards continue to be updated.

- b. *Child Support Workgroup.*** The workgroup identifies issues regarding child support laws, policies, and practices with particular attention on equity in the courtroom. An educational Child Support Symposium is scheduled at the Maryland Judicial Center (MJC) on March 24, 2023. Over 100 judges and child support administrators are scheduled to attend. Following several Rules Committee recommendations, members are also working on legal and administrative modifications that help make the child support process simpler, easier, and faster. Lastly, the workgroup is looking at how to ensure parties still have access to their children when they are in contempt for not paying child support. Mr. Abbott added that there are 13,000 active child-access cases across the state. They recently met with University of Maryland School of Social Work to develop a partnership where their students can assist the workgroup in exchange for hands-on experience.
- c. *Custody Evaluator Standards & Training Workgroup.*** This workgroup is working on implementing the recommendations from the 2020 *Custody Evaluator Standards & Training Work Group Report and Recommendations* report and setting standards for custody evaluators, which has become a big issue. Following the 214th Report, members are also working with the Rules Committee regarding a proposed amendment to Md. Rule 9-205.3, indicating that in a situation where an adult who allegedly lives in a household with the child cannot be located, the custody evaluation must contain documentation or a description of the evaluator's efforts to locate the adult. A Custody and Visitation Assessments Training is scheduled at the MJC May 15-17, 2023. Finally, Senate Bill 13 this year proposed changes regarding custody evaluator qualifications that differed from recent Rule changes. The workgroup met with sponsors of the bill and are working with GRPA to reconcile those differences.
- d. *Family Mediation & Abuse Screening Workgroup.*** The members of this workgroup review custody and visitation mediation issues, which includes the amendments made to Md. Rule 9-205 in January 2023. In addition, members help ensure there are sufficient guidelines on how to best screen cases for identification of domestic violence and have access to appropriate referrals. Changes were adopted last year following mediator assessment concerns and recommendations to screen each party individually and to expand that pilot program.
- e. *Guardianship & Vulnerable Adults Workgroup.*** Maryland has become a model for change in this area largely because of this workgroup. The Elder Justice Innovations Grant was recently received, which helps with statewide assessments, facilitating large group mediations, and alternatives to guardianship. There are two new guardianship videos available on our website under "Alternatives". The Rules Committee's 214th Report proposed amendments to Md. Rule 19-301.14 regarding clients with diminished capacity, an effort led by this workgroup. In addition, a large amount of education has taken place across the state, including the development of a regional program in Frederick County that provides guidance for best practices and helps the court monitor guardianship cases. A Guardianship Symposium is scheduled later this year on October 2, 2023.
- f. *LGBTQ+ Family Law Workgroup.*** Judge Serrette stated that she is particularly proud of the accomplishments of this workgroup. They are behind the name change and gender identity Rules, which exclude the requirement for name changes to be published and eliminates the risk of victims being harassed, discriminated against, or suffering additional violence. The new Rule is consistent with modern understanding of laws and gender identity and will enable those who seek those services to obtain them more easily. The workgroup also drafted new forms pertaining to these changes and are developing videos on best practices.

g. *Other Workgroups.* Based on the changes made to Md. Rule 9-204.1 in 2020, the Court Process Workgroup is assessing how mediators and others are navigating the parenting plan process and the workgroup is continuously working on how the process can be improved. The Domestic Forms Workgroup revises and drafts changes to forms throughout the year, and the Family Law Workgroup manages updates to the Maryland Trial Judge Family Law Bench Book. The Legislative Workgroup meets throughout session to review bills and make recommendations to the Legislative Committee. Finally, the Special Status Workgroup focused on finalizing protocol regarding judicial certification on visas and hopes to make recommendations soon. Ms. Nisa Subasinghe added that, in addition to the protocol, the Committee will be asking the Judicial Council to expand Family Law resources this fall.

Judge Serrette expressed her gratitude to Mr. Rich Abbott, Ms. Subasinghe, Ms. Sarah Kaplan, Ms. Abigail Hill, and Christine Feddersen (not in attendance) for their assistance on the Committee throughout the year.

Following a request for questions, Judge Carrión asked if the Guardianship Symposium is open to anyone. Ms. Subasinghe replied that it is open to Maryland judges and court staff who monitor guardianship cases and that equivalent staff in D.C. and Virginia have also been invited to help. The hope is that the Education Committee will approve continuing education credits for the symposium.

Judge Christy Chesser asked for additional information on the workgroup that is looking into the filing of peace orders on behalf of minors. Judge Serrette explained that all courts are already hearing these types of cases, but a colleague noticed the statute is slightly unclear and they want to prevent any issues from arising in the future.

Justice Fader thanked all the members for their work and for being on top of potential concerns. He added that two Rules will be presented to the Supreme Court the following day.

4. **Juvenile Law Committee**

Judge Michael Stamm spoke on behalf of the Juvenile Law Committee and explained that the committee provides guidance regarding policies, Rules, and legislation that impact juvenile justice and child welfare. There are 10 members, one representing each circuit and a dedicated magistrate, with the idea of ensuring all jurisdictions have a voice. This year was particularly challenging following the passing of the Juvenile Justice Reform Act, and multiple amendments have already come through session for the upcoming year. Judge Stamm stated he is very proud of the work being done by the committee.

a. *Foster Care Court Improvement Program (FCCIP) Subcommittee.* This subcommittee focuses on child welfare matters such as foster care issues and related case types, including Child in Need of Assistance (CINA), termination of parental rights, and involuntary guardianship. Based on the results of the latest federal review, the Best Practices Manual, Child Welfare Bench Book, and bench cards were recently updated to strengthen the courts' practices in areas of safety, permanency, and well-being. Additional training was provided to juvenile court clerks, as well as judges and magistrates, on the Education Stability Measures and MDEC updates. Finally, a pre-petition representation program is being piloted for families at imminent risk of involvement in a CINA proceeding in Dorchester County and Baltimore City.

b. *Juvenile Justice Subcommittee.* This subcommittee focuses on matters related to juvenile delinquency and children in need of supervision. The members continue to work on juvenile forms related to competency, peace orders, etc. for consistency and uniformity. The forms address all stages of a case including petition,

detention, adjudication, waiver, etc. All draft forms are reviewed for compliance with Md. Rules Title 11. Juvenile Rules are often different, so the subcommittee is working with the Judicial College to develop more training of judges and magistrates, including a tour of juvenile facilities around the state. The subcommittee will soon recommend that this training be a requirement for all judges and magistrates who hear juvenile cases. Lastly, the Truancy Court Workgroup continued its work advising the Specialty Courts & Dockets Committee and the Juvenile Law Committee on court-related programs around the state and whether it is recommended to change statutes, Rules, policies, or practices for truancy reduction.

- c. ***Looking Ahead.*** The newly established Juvenile Education Workgroup will propose training recommendations for uniform policies and practices for juvenile court judges and magistrates. The Child Abuse, Neglect, and Delinquency Options (CANDO) conference will be held on October 16-17, 2023, and many committee and subcommittee members will be in attendance, both as presenters and participants. Several bills are pending before the General Assembly concerning juvenile court jurisdiction, creating a safe harbor for victims of child sex trafficking, and expansion of truancy courts. Members are ready to undertake any work necessary to assist the courts in implementing changes. The committee is also working to address juvenile expungements and will continue to collaborate with the Departments of Juvenile Services and Human Services through the transition of the new administration. Judge Stamm stated that the committee's commitment will always be for the benefit of the children despite the Judiciary being blamed for not being tough enough on juveniles. He ended with his gratitude towards the lawyers at AOC who provide incredible support for the committee, including Mr. Abbott, Ms. Kaplan, Ms. Hill, and Ms. Gary.

Judge Chesser inquired about the backlog of juvenile transfers in facilities around the state. Judge Stamm explained that COVID caused several facilities to shut down, but all are now back up and running. Transfers can also be challenging because protocol is not uniform throughout the state. The Juvenile Law Committee is meeting with the new Secretary of Juvenile Services to ensure an open line of communication.

Judge Carrión asked about the curriculum of the CANDO conference in October. Ms. Gary replied that they are still working on details, but the conference will include a "Nuts & Bolts" series, federal review requirements, case law updates, and a heavy focus on permanency outcomes. The final agenda will be ready by the next Judicial Council meeting in May. Judge Stamm added that one breakout session is dedicated to cross-over youth. The idea is to customize services simultaneously based on the needs of the juvenile, rather than beginning with one agency and being sent to another. The conference will also include training for new judges and magistrates. In 2024, there will be a full-day juvenile delinquency training focused on the mental health of children.

5. **For the Good of the Order**

On behalf of the Conferences of Circuit Court Administrators and Circuit Court Clerks, Mr. Tucker presented Ms. Harris with an acknowledgment of her service and an expression of gratitude for her dedication and support to the Judiciary, especially through the pandemic. Justice Fader also presented a plaque to Ms. Harris for 10 years of service to the Judicial Council and acknowledged her invaluable role behind the scenes. Ms. Harris thanked everyone for helping her to serve the citizens of Maryland and for their commitment to justice. She is scheduled to retire in May 2023.

There being no further business, the meeting adjourned at 12:49 pm. The next meeting is scheduled for May 24, 2023, beginning 9:30 a.m.