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Conference of Circuit Judges
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**MINUTES OF THE MEETING OF THE
CONFERENCE OF CIRCUIT JUDGES**

A meeting of the Conference of Circuit Judges was held September 19, 2016, at the Judicial College Education and Conference Center in Annapolis, Maryland, beginning at 9:30 a.m.

Members Present

Hon. John W. Debelius III, Chair

Hon. Thomas C. Groton, III
Hon. Daniel M. Long
Hon. Paul M. Bowman
Hon. Thomas G. Ross
Hon. Kathleen Gallogly Cox
Hon. Jeffrey S. Getty
Hon. M. Kenneth Long, Jr.
Hon. J. Barry Hughes

Hon. Laura S. Kiessling
Hon. Theresa M. Adams
Hon. Sheila R. Tillerson Adams
Hon. Marjorie L. Clagett
Hon. Audrey J.S. Carrion
Hon. W. Michel Pierson
Pamela Harris

Also, Present Were:

Hon. Mary Ellen Barbera
Hon. Patrick Woodward
Hon. John P. Morrissey
Hon. Michael J. Stamm
Faye Matthews
Kelley O'Connor

Lou Gieszl
Lonni Summers
Kevin Kane
Pamela Ortiz
Eliana Pangelinan
Tracy Watkins

Judge Debelius welcomed Judge Getty to the Conference as the elected representative for the Fourth Judicial Circuit. Judge Getty replaced Judge Beachley.

1. Approval of Minutes

Judge Hughes moved for approval of the minutes of the May 16, 2016, meeting. Following a second by Judge Ross, the motion passed.

2. Communications and Related Topics

Chief Judge Barbera expressed her appreciation to the Conference for its hard work and commitment to advancing the circuit courts. She stated that shortly after her appointment as Chief Judge, she contracted the National Center for State Courts to conduct a study on the leadership and governance of the Maryland Judiciary. That study provided an opportunity for everyone to participate in a discussion on how best to move the Judiciary forward. Chief Judge Barbera noted that as an outgrowth of the study, she created the Administrative Judges Workgroup and charged its members with formulating recommendations that would help to facilitate the work of administrative judges. During that same time, Chief Judge Barbera embarked upon a concerted effort toward greater transparency and improved communication. She commented that in spite of those efforts, there still remains concerns about the effectiveness of communication throughout the Judiciary. It is for that reason, Chief Judge Barbera noted, that she was before the Conference. She solicited feedback from the Conference regarding any concerns, as well as suggestions for improvement. Chief Judge Barbera emphasized the importance of effective communication on efficient operations and greater transparency.

Chief Judge Barbera then noted that the Court has a rule before it regarding judicial absences, and a proposed policy on judicial absences. She stated that Judge Harrell led a workgroup to review all administrative orders issued by the Court or the Chief Judge. One of the workgroup's recommendations was that the State Court Administrator develop a policy on judicial absences.

Discussion ensued during which Chief Judge Barbera noted that she has received feedback from judges alluding to communication issues. Several Conference members responded to the contrary, noting a marked improvement in communication. Judge Clagett commented that the Seventh Judicial Circuit has a representative on the Rules Committee who keeps the judges in that circuit informed. Judge Hughes suggested that while he doesn't see an issue with communication, he does think that the length of some of the emails from the Administrative Office of the Courts are problematic and that an executive summary with bullet points might be more effective. Judge Debelius agreed, adding that while informative, some judges simply do not pay attention because of the frequency and length of the emails. He suggested that possibly limiting the frequency of the emails might be helpful. Judge S.R.T. Adams noted that if the intended audience is judges, then bulleted summaries might be more effective. She added that an important point is that everyone knows they have an opportunity to be heard and that it may just be that they don't know who to call for assistance or information.

Judge Carrion commented that it would be beneficial for Chief Judge Barbera to attend bench meetings, if possible, adding that emails are not as effectively transparent as face-to-face

meetings. Judge Kiessling added that if attending bench meetings is not possible, then visiting courthouses or circuit meetings would be helpful. Judge Hughes suggested that quarterly teleconference town hall-style meetings could be an option. Judge S.R.T. Adams stated that the Seventh Circuit's designated appellate judge attends all of the circuit meetings and could represent Chief Judge Barbera, relaying any concerns or issues. The discussion concluded with Judge Debelius expressing the Conference's appreciation to Chief Judge Barbera for her presence and openness. Chief Judge Barbera thanked the Conference for its openness and candor. She committed to trying to attend bench meetings from time-to-time.

3. FCCIP Proposed Legislation

Judge Patrick Woodward, Chair of the Foster Care Court Improvement Program Subcommittee, representing Judge Michael Stamm and the Juvenile Law Committee, discussed a proposed amendment to Courts and Judicial Proceedings Section 3-801 which will bring Maryland in compliance with the *Justice for Victims of Trafficking Act* passed by Congress in May 2015. The Act requires states to change their laws to include *child victims of sex trafficking* in the definition of sexual abuse. Failure to comply will result in the loss of federal funding for children in foster care. In addition to amending the aforementioned definition, the proposed legislation also adds a definition for sex trafficking to comport with the federal definition. The Act goes into effect May 2017. The proposed legislation has an effective date of June 1, 2017.

In response to a question raised by Judge Hughes, Judge Woodward noted that human trafficking remained in the proposed legislation without amendment because it is broader and includes the importation of humans for labor. The federal government wants to specifically address sex trafficking and noted that defining human trafficking alone is not sufficient to bring the states into compliance.

Judge Ross moved for approval of the amendment. Following a second by Judge Hughes, the motion passed. The proposed legislation will be presented to the Judicial Council for approval to include in the Judiciary's 2017 legislative package.

Judge Woodward thanked Judge Theresa Adams, the Legislative Workgroup, and Abigail Hill for their work.

4. Referral Pads

Lonni Summers, Access to Justice Department of the Administrative Office of the Courts, discussed a new tool, *referral pads*, developed by the Self-Represented Litigants Subcommittee of the Court Access and Community Relations Committee for use by judges to assist litigants after they leave the courtroom. Ms. Summers commented that the medical profession has used referral pads to help increase patients' understanding of what occurred during their visit, as well as to explain what happens next. This is done because doctors recognize that patients are under stress and may not fully comprehend what has transpired. In the same way, court users often are under a great deal of stress. The subcommittee surmised that

providing written information to litigants would be helpful as well. It is hoped that judges will have the referral pads available on the bench and use them to provide specific instructions on next steps for litigants. In addition, the reverse side of the pad contains contact information on statewide services from which litigants can seek assistance navigating the court system. Ms. Summers noted that in addition to the hard copy, editable electronic copies of the referral pads are available on the Access to Justice Department's website that can be modified to provide jurisdiction-specific information. There will be an initial mailing to all courts after which additionally copies can be requested.

5. Social Media Policy and Workgroup

Lou Gieszl presented the Social Media Policy for employees, noting that Chief Judge Barbera appointed a workgroup, co-chaired by Judge Debelius and Chief Judge Morrissey, to draft a policy to govern the use of social media by judges and magistrates. The Judicial Council, during its discussion of the policy, recognized that while judges are subject to ethical rules, specific guidelines regarding social media usage would be helpful, not only in the judges' official capacity, but also in their personal lives with respect to safety and security.

Judge Cox commented that social media is becoming an increasing issue in judicial elections, an area that should be addressed by the workgroup when drafting the policy. Judge Carrion added that personal social media usage also needs to be addressed. Judge Debelius stated that one area being addressed by the workgroup is the use of social media by attorneys who then are appointed to the bench. Judge Debelius asked the Conference to forward all comments either to him or Chief Judge Morrissey for consideration by the workgroup.

Mr. Gieszl provided an overview of the employees' policy, discussing the impact of social media on society. He noted that courts around the country are using social media and that some Maryland courts currently are using it to some extent.

The employees' policy defines social media and social networking and also sets standards for work-related and personal use. The proposed policy outlines three categories of authorized use of social media for Judiciary business, including dissemination of public information such as court closings and delays, docket changes, and available court services; posting public information regarding areas such as public health and safety notifications, special events, and case-specific information; and issuing information such as media advisories and statements on behalf of the Judiciary. Each category has a different approval process.

Judge Carrion emphasized the importance of distributing both policies at the same time and Judge Kiessling suggested adding a footnote to the employees' policy indicating that the workgroup is developing a policy for judges and magistrates.

6. Mandatory Minimum Considerations Under Justice Reinvestment Act

Judge Cox raised for discussion the provision within the Justice Reinvestment Act that

permits anyone serving a mandatory minimum sentence for a drug offense to request the court modify or reduce the sentence for a one-year time period, from October 1, 2017 through September 30, 2018, even if a prior modification was filed or previously denied. The onus is placed on the State to show why the defendant should not be granted the modification. There are approximately 1,200 individuals eligible for reconsideration. Judge Cox noted that the burden to process the cases will be substantial, assuming the Office of the Public Defender will handle all of the cases. She suggested the courts be proactive in determining the process as she foresees a host of issues. Judge Cox added that there may be categories of hearings and that what the State argues may inform the amount of work from the Office of Public Defender's perspective.

Judge Debelius commented that he welcomes suggestions for a uniform process and asked that any suggestions be forwarded to Judge Cox.

7. Department of Health and Mental Hygiene Update

Judge S.R.T. Adams and Chief Judge Morrissey updated the Conference on Department of Health and Mental Hygiene (DHMH) issues. They commented that Secretary Van Mitchell is committed to making improvements, increasing beds, and enhancing communication. Judge Adams noted that it was determined that the courts were not holding up things as had been alluded. She commended Chief Judge Morrissey for his work in moving the effort forward, acknowledging that the DHMH needs a commitment from the legislature for additional funding.

Chief Judge Morrissey noted that the workgroup met four times, including a joint session with approximately 30-35 legislators. He commented that he had one issue with the report which was that the DHMH used a matrix to determine when and how to prioritize placement. During the course of the meetings, it was determined that the court's authority to direct DHMH when to place someone is not clear. There is legislation that clarifies that DHMH is required to move quickly and obey court orders to accept mentally incompetent defendants.

The Office of Problem-Solving Courts will track the statistics to determine what is going on and also will serve as the liaison to the DHMH.

8. For the Good of the Order

Judge Debelius commented that it is good for the Conference, from time-to-time, to pause to look at its purpose and goals. One item of note is the term, which does not comport with the Judicial Council's term or the terms of the other bodies. As such, Judge Debelius suggested that the Conference change its term from September through May, to January through December, bringing it in line with the other conferences and the Judicial Council. There was no objection and the change was made by common consent.

Judge Debelius then stated that the Nominating Committee, comprised of the Chair, Vice Chair, and immediate past Chair, met and nominated Judge Cox for Chair and Judge Kiessling for Vice Chair. Nominations will remain open until the November meeting, during which the

Conference will vote on the ballot. The new Chair and Vice Chair will assume their roles in January when the new term begins.

Judge S.R.T. Adams advised the Conference to be mindful of the wrist phones that many people now wear. She noted that during a recent high profile murder case, witnesses were being videotaped through the wrist phones and the information was posted on social media. Her court now is exploring ways to scramble signals in the courtroom. In addition, phones are being seized in high profile cases.

Judge Hughes stated that historically Carroll County's Special Police Commission requested bailiffs provide security in the courtroom. A survey of the Conference determined that security is predominantly provided by the Sheriff's Office. Chief Judge Morrissey noted that bailiffs provide security in the District Court with the exception of the facilities that are shared with the circuit courts. He added that there is random 100 percent screening in three locations. In the Circuit Court for Baltimore County, there is 100 percent screening for everyone except judges. Judge Debelius commented that there may be a need to look at security across the state. The National Center for State Courts recommends 100 percent screening for courthouses.

Chief Judge Barbera stated that she sits on the Security Committee for the Conference of Chief Justices. One of the members noted that they invited people from the FBI and first responders to the courts to get a sense of the security. She commented that Maryland may want to consider doing something similar.

Action Items

- Conference members should send comments regarding the Social Media Policy for judges and magistrates to Judge Debelius or Chief Judge Morrissey.
- Conference members should send suggestions regarding a uniform process to facilitate the implementation of the Justice Reinvestment Act to Judge Cox.

There being no further business, the meeting was adjourned at 11:35 a.m. The next meeting will be held on Monday, November 21, 2016, at the Judicial College Education and Conference Center in Annapolis, Maryland. The meeting will begin at 9:30 a.m.

Respectfully submitted,



Faye Matthews
Conference Secretary