CONFERENCE OF CIRCUIT COURT ADMINISTRATORS MEETING

Minutes
March 27, 2018

Conference Members Present:
Doug Hofstedt (Chair)
Matthew Barrett (Vice-Chair)
Melissa Batie
Emanuel Demedis
Marina Fevola
Michael Howard
Joy Keller
Susan Leary
Judy Lohman
Stephanie Medina
Tim Miller
Judy Rupp
Anne SanGiovanni
Teri Scherer
Tim Sheridan
Kristine Short
Sandy Smith
Lori Tabor-Finch
Bobbie Warnken
Deborah Zrioka

Administrative Office of the Courts:
Lynne Murphy

Deputy Court Administrator Guests:
Erica Payne-Santiago
Burgess Wood

A meeting of the Conference of Circuit Court Administrators was held on March 27, 2018, at the Judiciary Education & Conference Center, beginning at 10:00 AM. Doug Hofstedt began the meeting by welcoming everyone. He then called for approval of the minutes from the January 30, 2018 meeting. Melissa Batie moved for their approval. The motion to approve was seconded by Judy Rupp and passed.

SICK/SAFE LEAVE ACT – *Lee Robinson/Jennifer Boswell*

- House Bill 3 from last year became the Sick/Safe Leave Act. Legislature passed it, the governor vetoed it, and the legislature then overrode the veto. The bill went into effect on February 11th.
- This law provides all employees (regular, temporary, contractual, etc.) with the opportunity to earn leave at the rate of one hour for every 30 hours worked, to be used for many different things, and allows them to use it differently than outlined in our regular policy.
- The main issue HR is encountering is how to accurately track employees' usage. It is the Court Administrators' responsibility to make sure their employees are receiving at least 40 hours a year

of leave. What is needed is a mechanism to count it. Because this allows employees to be absent without notice, there will never be complete control over it.

- Forty (40) hours can be granted up front. If done this way, there is no carryover requirement. Individuals can decide what works best.
- The AOC is looking at a minimum number of hours. They are not concerned about taking off; the problem lies with unscheduled absences. There is a requirement for the employee to take leave in increments of at least four (4) hours. While this reduces the number of days leave can be used, four hours might be more than what the employee needs, and could force people to not be at work when they actually could be there.
- QUESTIONS/CONCERNS:
  - Doug asked, how is the tracking mechanism being developed?
    - Lee explained that CONNECT currently tracks leave, but the law allows employees to be absent between those. They will probably create special codes to track other leave. He thinks a leave code will be the most effective way to handle it.
    - Lee will check with his counterpart in the Executive Branch to find out what they are doing to track leave usage.
    - Doug would like to mirror what the AOC develops in his courthouse. Lee will keep court administrators advised throughout the process.

STATUS UPDATE ON DCM PLANS – *Jamie Walter/Dominique Johnigan*

- As of today, statewide, 46 plans have been received. This includes both District Court and Circuit Court DCM plans.
- Chief Judge Barbera has approved seven (7) plans and is in the process of reviewing six (6) more. There are nine (9) plans under review by others right now.
- Cecil, Worcester, and St. Mary's counties' plans are being prepared to send to Faye for her review. Next up are Somerset, Dorchester, Anne Arundel, Wicomico, and Talbot.
- There are multiple stages to the approval process: Court Operations sends to AOC, who then sends is back to Court Operations. They then forward it to Chief Judge Barbera, who sends it back to Court Operations. Faye typically takes 2-4 weeks for her review, while Chief Judge Barbera has been averaging 2-3 weeks. How much time it takes varies depending on the Court.
- Plans are reviewed to ensure that the Rules are correct, and to check for grammatical errors. The changes made are suggestions sent to the Court, and the Court can choose to accept the changes or not. They remain suggestions until they reach Chief Judge Barbera, who can then choose to adopt those changes should she approve them.
- There is a template for a website where DCM plans will be placed, on mdcourts.gov, so the public can view them. The plans will also be sent to self-help centers, so attorneys can guide clients in using them. Courts should place their approved plans on their respective county websites.
- The county view in the Data Dashboard is almost complete. It will allow users to compare across multiple counties and to download a spreadsheet comparing all counties. This should launch in approximately a week. The FY2017 abstract will be posted soon, as well.
- QUESTIONS/CONCERNS:
  - Matt Barrett asked, how far out are we from real-time data in the abstract?
    - Jamie says they are planning on doing monthly updates, instead of real-time updates. This summer, they will meet with JIS and create an Enterprise Customer

Report to show what needs to be uploaded. This will only apply to MDEC counties, with information from non-MDEC counties being collected separately.
- o Matt also asked that each jurisdiction be updated.
    - ▪ Dominique will send Lynne Murphy the timeline to post on SharePoint.

SOCIAL MEDIA POLICY IN HIRING DECISIONS – *Michele McDonald*

- Michele began by introducing her new team of Assistant Attorneys General:
    - o Alexis Rohde, with a background in Orphans' Courts, Register of Wills, mandamus work, general litigation, and general troubleshooting
    - o Colby Schmidt, with a background as counsel for the Clerks of Circuit Court, in Land Records, and in general litigation
    - o Kevin Cox, with a background in employment law, insurance, and general litigation
    - o Everyone is handling appellate work right now, and any of them can answer questions from court administrators.
    - o Michele will send around their contact information.
- With regards to using social media background checks in making hiring decisions, Michele's bottom line advice is no, do not use it. The use of social media in the solicitation phase is perfectly fine, and advertising jobs on social media is acceptable. Recruiting may also be done via other types of media.
- In 2012, the General Assembly relieved Maryland of the responsibility to pre-screen candidates.
- In 2017, CareerBuilder conducted a survey. They found that 70% of employers used social media, and that 54% of them discovered information that led to them not choosing to hire the candidates. Approximately 40% of those managers found information that caused them to select a particular candidate over others.
- Michele distributed a handout outlining the risks of using social media in hiring decisions and walked the CCCA members through it. Lynne will post on SharePoint, as well.

- **RISKS:**
    - o **False Positives** – There is a series of underlying biases in social media. The potential for false positives comes as a result of individuals using untrue names or dates of birth on social media sites. Also, many names are common and it can be difficult to find the correct candidate. Many social media sites also do not provide access to searching for that information.
    - o **False Negatives** – Social media searches can incorrectly miss information about an individual for the same reasons as a false positive.
    - o **Illegality** – Some states, including Maryland, have made social media searches illegal. Applicants cannot be required to provide their user names and passwords to personal accounts. There are exceptions if you believe the employee is sharing confidential information, but otherwise they cannot be forced to provide the information.
    - o **Violations of Terms & Conditions** – Most social media sites have terms and conditions which prohibit anyone from logging in using someone else's login credentials. Violating these terms can be a breach of contract, copyright violation, and/or wire fraud, etc. By attempting to troll the websites or friending someone in order to gain access to their information, an employer could create liability for himself/herself.

o **Discrimination** – This is the most important risk to keep in mind. The potential for a hiring manager or HR personnel to engage in discrimination by the way someone looks and to use a social media background check is high. The information they view could create a negative impression of the candidate. The EEO Commission opines that social media serves as the "modern day water cooler", and the National Labor Relations Board has determined that employees cannot be disciplined for negative posts. (We are not subject to the National Labor Relations Act).

o **Protected Activity** – If employees use Facebook, Twitter, etc. to complain about their current or prior employers, you do not want your hiring manager to have that information. It is considered protected activity under the National Labor Relations Act.

o **Image Management** – People craft their online presence with some purpose in mind, constructing an image, or wanting to communicate with people in a certain way. Just as they control what information they provide on a résumé or in an interview, they control what they post. At times posts may include misinformation about their conduct, which can be misconstrued.

o **Irrelevance** – Most of the time, whether or not someone can perform the job well is not necessarily ascertained from social media posts. If not narrowed to business-concerned information, it is considered irrelevant.

o **Expense** – For whomever is conducting the search, whether it's a third party or HR personnel, it can be time-consuming. There can also be monetary expenses involved.

- **BEST PRACTICES:**
  1. Social media screening should be performed by the HR department or a third party background check vendor – someone who knows all the rules. The hiring manager/future supervisor should be involved in any social media screening processes.
  2. Social media checks should be conducted at the end of the hiring process, in conjunction with any other required background checks (criminal records, FCRA).
  3. Social media screenings should examine only "public profile" information. Do not "friend" a candidate or demand their social media account passwords.
  4. Develop policies for determining when social media screenings are appropriate, and perform such checks on a consistent basis.
     a. DO use only public information.
     b. DON'T pick and choose social media platforms.
     c. DO focus on information that is relevant to the job.
     d. DON'T hide that you are searching. The potential employee has the legal right to know that they are being researched and to verify the validity of their profile.
  5. Allow the candidate to explain any details that may affect employment. Social media profiles can be susceptible to hacking, and people can tag applicants in photos without their consent or post comments without their permission. False pages are also created sometimes that impersonate users. These things would warrant an explanation.
  6. Document any adverse actions. Employers are entitled to disqualify applicants exhibiting dangerous, harassing, or illegal conduct on their social media sites. In order to support your decision, it is best to document with as much detail as possible. Taking screenshots, printing out pages, and securing them is crucial because social media is always changing, and evidence can be removed.

- **OVERALL RECOMMENDATION:**
  - Because it is so challenging to apply these best practices consistently, Michele would recommend NOT doing a social media background search. There is too much risk involved, and it adds another layer to people's already-busy jobs. Time could be spent more wisely contacting candidates' references (former employers, etc.). If you chose to prescreen, the best practices must be consistently, uniformly applied. Michele pointed court administrators back to the Judiciary's social media policy for additional guidance.

- **QUESTIONS/CONCERNS:**
  - Lee Robinson and Jennifer Boswell concur with Michele's recommendation. The AOC does not look at social media while making hiring decisions. Coworkers have approached HR personnel about things they have seen on Facebook in the past, which has put them in a predicament, and they have had to look at it. There have been a couple of occasions on which employees have had to be confronted about the things they posted. Lee recommends gathering whatever information you can, after the person has been hired, and then contacting Michele with questions. Lee and Jennifer do NOT recommend doing social media prescreening either, as it can be difficult to determine where freedom of speech ends and a matter of public concern begins.

CURRENT & UPCOMING JIS INITIATIVES – *Bob Bruchalski/Jeff Huddleston*

- Bob explained the leadership changes that have taken place, with him taking over as Assistant Administrator/CIO after Mark Bittner's retirement, and Jeff Huddleston taking on the role of Deputy CIO. They are in the process of restructuring.
- Highlights:
  - Carroll, Howard, and Harford counties will all go live next month, and COSA will go live in August of this year.
  - Baltimore County will be the model for others in re-staffing JIS to support larger sites.
- Current Initiatives:
  - MDEC
  - Courthouse eReadiness
  - Virtual Desktop Infrastructure (VDI)
    - The introduction of VDI (Virtual Desktop Infrastructure) will allow for less on-site support. So far, JIS has received plenty of positive feedback on it. MDEC and COOP plans work well with VDI because of the remote access capabilities.
  - eRecording
    - Barbara Hansman is the project manager.
    - Little cost to AOC
  - Cybersecurity
    - Includes the Wombat training program
  - Attorney Information System (AIS)
    - One-stop shop system for attorneys' registrations
    - Central portal for attorney information
  - IT Service Management
    - ServiceNow ticketing system

- Internally-focused
- Tracks resources to provide justification for additional resources/money
- Near Future Initiatives:
    - Digital Audio Recording
        - There are two systems used in MD, CourtSmart and For the Record (FTR). District Courts use CourtSmart exclusively.
    - Text/Email Alert/Notification
        - Text reminder system for scheduled appearance dates
        - Minnesota shared that a text notification system has reduced their FTA rates, and other jurisdictions have also provided positive feedback. We will be moving forward with the pilot.
    - Windows 10
        - JIS has a new laptop and PC provider. Dell will replace Lenovo for all new machines and replacements.
        - Beginning in January 2020, Windows 7 will no longer be supported by Microsoft.
        - Windows 10 is more secure.
    - Business Center
        - Will provide kiosk-type workstations to allow attorneys to do file and serve right there at the courthouse. They will probably be set up in law libraries, as well, or another designated spot.
- Future Initiatives:
    - CaseSearch 2.0
        - Redesign of current CaseSearch, making it a more granular, flexible system
        - Allows for sharing or not sharing information on a more dynamic level.
        - Legislation has given the deadline of when MDEC is completely rolled out across Maryland.
    - Data Access/Analytics
        - Bulk subscription facility
        - Consolidation of data via MDEC
        - Not sure yet whether it will be fee-based.
    - Managing Digital Evidence
        - How to accommodate body cameras, smartphones, drones, etc.
        - Chain of custody/security
    - Electronic Records Management
        - Records retention schedule
- For more details, the PowerPoint presentation is posted on SharePoint.
- QUESTIONS/CONCERNS:
    - Doug asked, where does PC replacement fit into the strategic plan?
        - Jeff explained that the replacement cycle and refresh are established. They will need to take an inventory to know what is needed and when. Bob added that the timeframe is more or less 5 years, but that the point is to properly budget for the lifetime of an asset.

OTHER BUSINESS

- Matt Barrett requested a volunteer to be in the Audio Recording Central Backup Workgroup with him. Teri Scherer volunteered.
- Mindy reminded everyone about the Records Retention Schedule. Pam Harris will be sending a list of names to the Archives, naming the records custodians.
    - Lori Tabor-Finch asked about integrating CourtSmart into MDEC files. Jeff explained that integration is based on the strategic plan.
    - Doug shared that typically the Clerk of the Court is the custodian of the record.
    - Court administrators need to know what to do with cassette tapes. Archives has refused to accept them, and it can be challenging to figure out when some tapes contain a mixture of minor and serious cases.
        - Mindy asked that administrators let her know if/when they run into refusals from the Archives when trying to transfer permanent records.
        - Requiring indexing has been the biggest hurdle. Mindy will talk with them and try to get to the bottom of it.
- Joint Conference:
    - The Conference will take place at the Princess Royale Hotel in Ocean City, MD. Doug encouraged everyone to be there, including deputies. Once the contract has been finalized with the hotel, he will send out more information.
    - Doug also asked that members consider being Matt's vice-chair next year, since planning needs to begin soon for next year's Joint Conference.
- Security Screening:
    - Full screening has begun at Anne Arundel County Circuit Court, and has been a bit of a challenge. The State's Attorneys employees have been the most difficult. They are currently using separate lines for employees and the public. Doug is wondering what others are doing.
        - Judy Rupp shared that in Montgomery County they are struggling because employees do not want to be screened. They question why it is required. The public, however, do not seem to mind. A committee has been created, which she recommends for every court. She also recommends an educational component.
        - Melissa Batie thinks the other government buildings might just not have gotten there yet with their screening processes. The question is, why is any employee less likely to crack than the public?
        - Anne SanGiovanni shared that their policy is 100% screening, mostly for the appearance factor. It prevents the public asking why the employees are more special than they are. There is only one entrance, and if there is no one in line, employees are allowed to bypass the screening.
        - Teri Scherer says that they are conducting random screening. Employees are in and out of the building all day, with many across the street. They would have to screen them every time they go in and out. Once the renovation is complete, they will transition to full screening.
        - Tim Sheridan's courthouse performs full screening. Sheriffs recommended two mixed lines. They keep two lines open when busy, and go back to one when traffic is lighter. The only people allowed to bypass are judges and badged law enforcement officers.

o After-Hours Access:
  ▪ In some courthouses, security stays if cases go long and last until after regular court hours. Outside doors are locked to keep the public from entering.
o Handguns for Judges:
  ▪ Doug is requiring that judges purchase their own lockboxes for their chambers. He is also working on developing a policy requiring them to lock up their guns at the front of the building and leave them there for the day.
  ▪ Anne only has one judge who carries a gun, and he uses a lockbox. In the past, there has been a gun stolen from a desk and it was used in committing a bank robbery, so it is not something taken lightly.

COMMITTEE UPDATES

(It was decided that from now on, members will only share if there is anything of interest, or any updates.)

❖ **JUDICIAL COUNCIL –** *Doug Hofstedt*
  ▪ The last meeting was canceled. No update to give.

❖ **CONFERENCE OF CIRCUIT JUDGES –** *Doug Hofstedt*
  ▪ Doug will forward the information discussed, as this was a long meeting.
  ▪ The Business Technology program is being worked on, and a workgroup is evaluating whether or not to continue using it.
  ▪ ICE enforcement in courthouses was also discussed. A policy is in the works to require that arrests be made outside of courthouses.

❖ **CONFERENCE OF CIRCUIT COURT CLERKS –** *Matthew Barrett*
  ▪ Stacey Saunders presented information regarding proficiency-based education.
  ▪ Internal Audit gave a presentation, as well.
  ▪ Bob Hogan explained to the Conference how Commissioners' Assistant technology is being integrated with MDEC, and rolling out statewide.
  ▪ The DV interview tool in Odyssey has been met with dislike. A pilot is being developed and a rollout will occur to use DV Office, the District Court platform, which will feed directly into Odyssey. This is a much better solution than the DV feature in Odyssey.

❖ **COURT TECHNOLOGY –** *Matthew Barrett*
  ▪ The Email Retention Workgroup will be converting Anne Arundel County's emails next month, with Carroll County after that, and Baltimore County rolling out in November. Montgomery and Prince George's counties will be completed after July.

❖ **COURT ACCESS –** *Judy Lohman*
  ▪ No update.

❖ **SPECIALTY COURTS & DOCKETS –** *Judy Rupp*

- No update.

❖ **ADR** – *Tim Sheridan*
  - No update.

❖ **SENIOR JUDGES** – *Sondra Battle*
  - Sondra was not present. No update.

❖ **JUDICIAL ASSISTANTS** – *Teri Scherer*
  - No update.

❖ **COURT OPERATIONS** – *Sandy Smith*
  - No update.

❖ **JURY USE** – *Sandy Smith/Anne SanGiovanni*
  - No update.

❖ **CASE MANAGEMENT** – *Tim Sheridan and Jenn Keiser*
  - No update.

❖ **COURTHOUSE EQUITY** – *Stephanie Medina*
  - There will be a meeting on April 10th. Stephanie will distribute the minutes once they are approved.

❖ **FORMS** – *Nancy Faulkner*
  - Nancy was not present. No update.

❖ **COURT REPORTING WORKGROUP** – *Teri Scherer*
  - No update.

❖ **RECORDS RETENTION WORKGROUP** – *Jenn Keiser*
  - No update.

❖ **EDUCATION** – *Judy Lohman*
  - No update.

❖ **PROFESSIONAL DEVELOPMENT** – *Tim Sheridan/Melissa Batie*
  - No update.

❖ **TECHNOLOGY TRAINING** – *Doug Hofstedt*
  - No update.