

MARYLAND



JUDICIARY

Judicial Council

2020 Annual Report

MISSION

The Maryland Judiciary provides fair, efficient, and effective justice for all.

VISION

The Maryland Judiciary advances justice for all who come to Maryland's courts.

We are an efficient, innovative, and accessible court system that works collaboratively with justice partners to serve the people with integrity and transparency.

GOALS

1. Provide access to justice.
2. Be responsive and adaptable to changing community needs.
3. Communicate effectively with stakeholders.
4. Improve systems and processes.
5. Be accountable.
6. Assure the highest level of service.
7. Build partnerships.
8. Use resources wisely.



THE MARYLAND JUDICIAL COUNCIL

As the governance body of the Judiciary and principal policy advisor to the Chief Judge of the Court of Appeals, the Maryland Judicial Council is committed to advancing the Judiciary's mission of providing fair, efficient, and effective justice for all.

The Judicial Council is the nexus through which its committees vet Judiciary-wide policy changes, judicial reforms, legislative issues, and other internal and external developments that impact the administration of justice.

Guided by the eight key goals of the Judiciary's strategic plan, the committees develop recommendations for policies, programs, and initiatives that help ensure efficient operations and the timely and effective administration of justice in Maryland. These recommendations are reviewed by the Judicial Council and, if accepted, are forwarded to the Chief Judge for approval.

The Judicial Council and its committees, subcommittees, and work groups include a wide representation of the diverse Judiciary community: judges, magistrates, trial court clerks and administrators, commissioners, and justice partners throughout Maryland.

It is through their collective work that the Maryland Judiciary is fulfilling its mission and achieving its strategic goals in serving the people of Maryland.

This report focuses on just a few highlights of the work of the Judicial Council and its committees during calendar year 2020.

CONTENTS

Judicial Council Overview	1
Message from the Chief Judge	2
2020 Judicial Council	3
2020 Judicial Council Committees	4
COVID-19: Tackling a Global Pandemic Through Teamwork and Leadership ..	5
Making History: The Judiciary Turns to Technology amid a Global Pandemic ..	8
The Roadmap to Resuming Jury Trials during a Pandemic	11
A Call to Action: Maryland's Problem-Solving Courts Find New Ways to Connect during COVID-19	14
Addressing Systemic Inequities in 2020: Equal Justice Committee Forms under the Judicial Council	17

A MESSAGE FROM CHIEF JUDGE MARY ELLEN BARBERA

I am pleased to present the Maryland Judicial Council 2020 Annual Report. This report focuses on key accomplishments that were achieved throughout this unprecedented year for the state of Maryland, the nation, and the world. From the outbreak of COVID-19 to addressing systemic inequalities, the work of the Judiciary's core advisory and governance body, the Judicial Council, was plentiful in 2020.

A new committee was formed in 2020, and their hard work has been significant in guiding the appellate courts, the circuit courts, and the District Court of Maryland in determining best practices and strategies when dealing with a global public health crisis and strengthening the Maryland Judiciary's commitment to equal justice under the law.

In this report, you will read about some of the efforts the Judicial Council undertook to ensure safe and effective access to justice for all Marylanders, such as the monumental transition from in-person hearings to electronic remote hearings, the use of innovative locations for *voir dire* in jury trials, and the use of videoconferencing platforms to assist those individuals who have personal struggles and rely heavily on Maryland's problem-solving courts. You will also read about efforts by the Judiciary to apprise the public, media, and justice partners on the impact of COVID-19 on the courts.

And finally, you will read about the Judicial Council's newest committee tasked with making recommendations on strategies to dismantle any discriminatory behaviors in all aspects of the Judiciary's functions. The Equal Justice Committee is the Judicial Council's largest member committee to date, and it is hyperfocused on addressing systemic inequities within the legal system by increasing knowledge and understanding of ethnic disparities, discrimination, and systemic racism.

The accomplishments in this report were possible only through the hard work and dedication of the members of the Judicial Council committees, judges, Judiciary staff, and justice partners throughout the state.

On behalf of the Maryland Judicial Council, I hope you will find this report interesting and beneficial. For a comprehensive recounting of the Judiciary's efforts, initiatives, and achievements, I invite you to peruse the *Maryland Judiciary 2020 Strategic Plan Update*.



Mary Ellen Barbera
Chief Judge, Court of Appeals of Maryland

2020 JUDICIAL COUNCIL

Honorable Mary Ellen Barbera, Chair *
Chief Judge, Court of Appeals

Melissa Batie
Chair, Conference of Circuit Court
Administrators
Court Administrator, Circuit Court for
Wicomico County

Honorable Keith A. Baynes
Vice-Chair, Conference of Circuit Judges
Circuit Court for Cecil County

Honorable Pamila J. Brown
District Court in Carroll and Howard
Counties

Honorable Angela M. Eaves
Circuit Court for Harford County

Honorable Matthew J. Fader *
Chief Judge, Court of Special Appeals

Marina Fevola
Vice-Chair, Conference of Circuit Court
Administrators
Court Administrator, Circuit Court for
Kent County

Markisha Gross
Administrative Clerk
District Court in Montgomery County

Honorable Katherine Hager
Vice-Chair, Conference of Circuit Court
Clerks
Circuit Court for Queen Anne's County

Pamela Harris *
State Court Administrator
Administrative Office of the Courts

Honorable James A. Kenney III (Ret.)
Chair, Senior Judges Committee

Honorable Karen H. Mason
Circuit Court for Prince George's County

Honorable Patricia L. Mitchell
District Court in Montgomery County

Honorable John P. Morrissey *
Chief Judge, District Court of Maryland

Honorable Charlene M. Notarcola
Chair, Conference of Circuit Court Clerks
Circuit Court for Cecil County

Honorable Laura S. Ripken *
Chair, Conference of Circuit Judges
Circuit Court for Anne Arundel County

Honorable Bonnie G. Schneider
District Court in Caroline, Cecil, Kent,
Queen Anne's, and Talbot Counties

Mary K. Smith
Administrative Clerk
District Court in Carroll and Howard
Counties

Roberta Warnken
Chief Clerk, District Court of Maryland

Honorable Alan M. Wilner (Ret.)
Chair, Standing Committee on Rules of
Practice and Procedure

Honorable Brett W. Wilson
Circuit Court for Dorchester County

Honorable Dorothy J. Wilson
District Court in Baltimore County

Faye D. Gaskin, Secretary
Deputy State Court Administrator
Administrative Office of the Courts

* Member of Executive Committee

2020 COMMITTEES

Alternative Dispute Resolution Committee (ADR)

Honorable Mimi Cooper, Chair
Promote the use of appropriate dispute resolution processes throughout the courts. Provide an avenue for courts to vet changes to ADR rules and standards of conduct.

Court Access and Community Relations Committee

Honorable Pamela J. White, Chair
Address barriers to access to the courts and legal services in Maryland. Strengthen public awareness of the Judiciary's programs, projects, services, and initiatives. Promote knowledge and understanding of the Judiciary.

Court Operations Committee

Honorable Brett W. Wilson, Chair
Address matters related to the efficient operations of the courts. Assist in the development of consistent statewide operations, policies, and best practices.

Court Technology Committee

Honorable Fred S. Hecker, Chair
Ensure the technology operations of the Judiciary are efficient and effective. Provide advice and guidance regarding the implementation of technology and its impact on judicial operations and functions.

District Court Chief Judge's Committee

Honorable John P. Morrissey, Chair
Chief Judge, District Court of Maryland
Aid the Chief Judge of the District Court in the administration, operation, and maintenance of the District Court statewide.

Domestic Law Committee

Honorable Cynthia Callahan, Chair
Provide guidance and direction regarding policies, rules, and legislation surrounding family domestic law, including domestic violence. Recommend policies, rules, and legislation that improve the effective administration of domestic law.

Education Committee

Honorable Susan H. Hazlett, Chair
Guide, promote, and encourage the education, training, and professional development of all Judiciary judges and employees.

Equal Justice Committee

Honorable E. Gregory Wells, Chair
Ensure that judges and staff increase their knowledge and understanding of ethnic disparities, discrimination, and systemic racism, including implicit bias, micro-inequities, and micro-aggressions.

Juvenile Law Committee

Honorable Michael J. Stamm, Chair
Provide guidance and direction regarding policies, rules, and legislation surrounding juvenile law, including juvenile justice and child welfare. Recommend policies, rules, and legislation that improve the effective administration of juvenile law.

Legislative Committee

Honorable W. Timothy Finan, Chair
(until October 2020)
Honorable Stacy A. Mayer, Chair
(October 2020 - December 2020)
Protect and promote the Judiciary's interests regarding new laws and initiatives.

Major Projects Committee

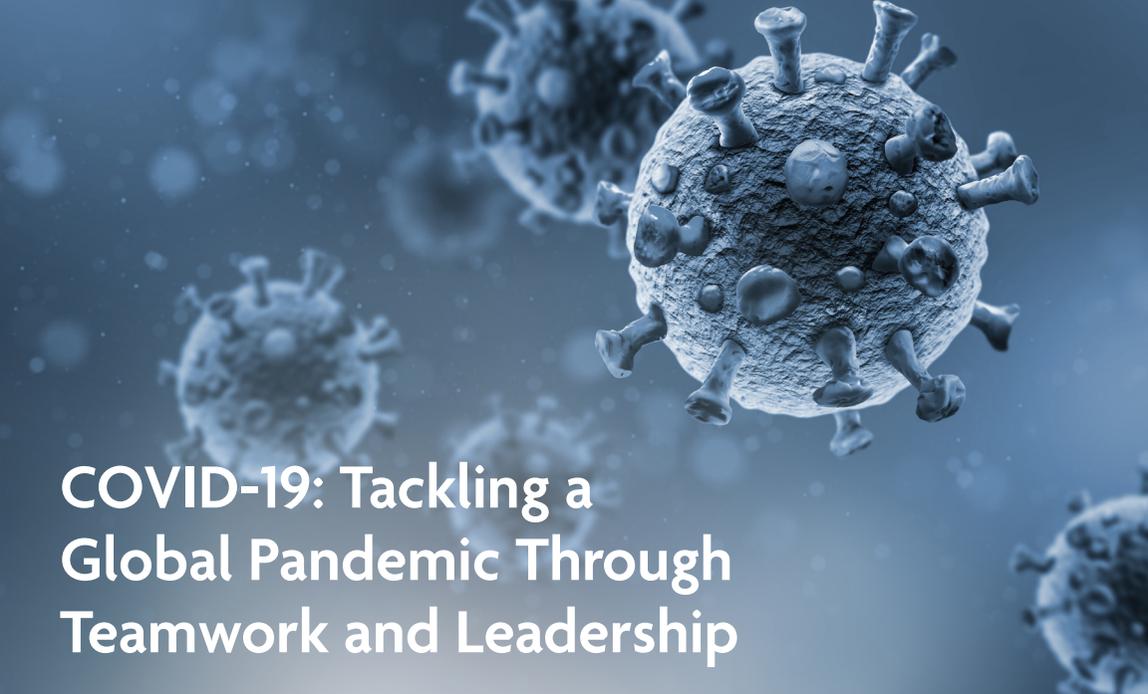
Honorable John P. Morrissey and Pamela Harris, Co-Chairs
Address policy-related matters regarding the implementation and ongoing operation of new and existing technology projects, as well as the establishment of priorities for the implementation of those projects.

Senior Judges Committee

Honorable James A. Kenney III (Ret.), Chair
Advise the Chief Judge of the Court of Appeals and the Judicial Council on matters relevant to retired and recalled judges.

Specialty Courts and Dockets Committee

Honorable Nicholas E. Rattal, Chair
Promote and oversee the development, implementation, and evaluation of specialty courts and dockets in the courts.



COVID-19: Tackling a Global Pandemic Through Teamwork and Leadership

When the COVID-19 pandemic reached the United States, court systems across the country were forced into emergency operations. With no formal roadmap available to guide the courts through a global pandemic, each state turned to local and state agencies and organizations to develop and implement an effective response plan to the global health crisis.

At the start of the pandemic, the Maryland Judicial Council met with leaders from the Maryland Department of Health to discuss the nature of the coronavirus and develop ways the courts could respond to the emergency. Then Maryland Department of Health Secretary Robert Neall advised the Judicial Council about the need to maintain certain health protocols in courtrooms and Judiciary buildings across the state, such as mask requirements, hygiene protocols, and social distancing guidelines, in order to safeguard the public's health in Maryland.

Days later, Maryland Court of Appeals Chief Judge Mary Ellen Barbera issued two administrative orders authorizing administrative judges in the trial courts to take appropriate measures to protect the safety of the public, legal community, and court personnel.

"I had no choice but to suspend all non-essential judicial activities, including jury trials, in order to balance the need for the courts to remain operational for emergency proceedings," said Chief Judge Barbera. "The response was deliberate and calculated to ensure the health and safety of Judiciary employees and court visitors as the global pandemic continued to amplify throughout the country and our state."

Within days, those orders were amended to close all courthouses statewide and require only essential employees to report to work, while permitting non-essential

employees to work remotely. On March 19, 2020, Chief Judge Barbera issued what would be her first of many video messages apprising the public, legal community, and staff of the unprecedented impact that COVID-19 had, and would continue to have, on the Judiciary.

In a historic move for the Maryland Judiciary, court staff worked tirelessly to implement remote technology, such as the videoconferencing platform Zoom, to conduct emergency and other court matters remotely. The Maryland Court of Appeals also heard oral arguments remotely for the first time on April 3, 2020.

“The Judiciary’s ability to go from in-person to remote proceedings in such a short amount of time reflects our ability to be responsive to the changing needs of the public and legal community,” said State Court Administrator Pamela Harris. “At the time, the Judiciary was finding new ways to continue with emergency court proceedings. We now know the positive impact remote proceedings can have on our court system and we will continue to build the Judiciary’s infrastructure to be able to continue with such remote proceedings beyond the pandemic.”

“From the start of the pandemic, the District Court of Maryland worked hard to hold remote hearings safely, including bail reviews, bail modifications, sentence modifications, criminal pleas, and drug and mental health dockets, incorporating technological advances to reshape the way we conduct business,” said Chief Judge John P. Morrissey. “The global pandemic has changed the way in which the courts will do business in the future.”

In June, the Judicial Council’s Court Technology Committee proposed the sole use of Zoom for Government as the Judiciary’s preferred remote video platform. With no end in sight for the pandemic, Technology Committee Chair Judge Fred S. Hecker, Circuit Court for Carroll County, advised the Judicial Council that judges and Judiciary staff would greatly benefit from a standardized guideline or best practices document. As a result, the Court Technology Committee formed the Remote Hearings Work Group to review best practices for remote hearings. The work group’s research and efforts resulted in the *Report to Maryland Judiciary Judicial Council on Remote Hearings Proposed Standards and Guidelines*. The report focused on two primary areas: technology processes and court business processes. It outlined best practices and recommendations formulated specifically for court operations in Maryland, such as waiting rooms that allow for sequestration of witnesses, breakout rooms that allow for private communication between counsel and their client,

and functionality to facilitate spoken language interpretation.

“From the start of the pandemic, the District Court of Maryland worked hard to hold remote hearings safely, including bail reviews, bail modifications, sentence modifications, criminal pleas, and drug and mental health dockets, incorporating technological advances to reshape the way we conduct business,” said Chief Judge John P. Morrissey. “The global pandemic has changed the way in which the courts will do business in the future.”

Later, on May 22, 2020, Chief Judge Barbera issued administrative orders regarding what would become the gradual resumption of full court operations. The plan consisted of a five-phased approach that would guide the courts to a gradual return to full operations. During the various phases, the courts would continue to maintain health and safety protocols and utilize technology to conduct remote proceedings.

“Throughout the crisis, the 4,400 public servants who comprise Maryland’s judicial branch of government continued to serve Maryland by reporting to work under the new guidelines or by teleworking,” said State Court Administrator Pamela Harris. “They carried out core court functions by leveraging technology, practicing social distancing, restructuring dockets, and adjusting business practices in response to COVID-19. Their efforts have made a gradual resumption of full court operations possible.”

From the installation of plexiglass partitions and hand sanitizing stations to the monumental transition from in-person hearings to remote proceedings, the Maryland Judiciary weathered the COVID-19 pandemic in calendar year 2020 albeit with creative and innovative changes.

“The Judiciary, like the communities it serves, has persevered,” said Chief Judge Barbera. “We found new approaches to performing essential functions and broke new ground during difficult and challenging times, while managing to safeguard the rule of law and due process. Navigating the pandemic took extraordinary levels of patience and collaboration to allow the core functions of the courts to continue.”



“The Judiciary, like the communities it serves, has persevered,” said Chief Judge Barbera. “We found new approaches to performing essential functions and broke new ground during difficult and challenging times, while managing to safeguard the rule of law and due process. Navigating the pandemic took extraordinary levels of patience and collaboration to allow the core functions of the courts to continue.”

Making History: The Judiciary Turns to Technology amid a Global Pandemic



Judge Fred S. Hecker
Circuit Court for Carroll County
Chair, Court Technology Committee

If necessity is the mother of invention, the COVID-19 pandemic has forced the Maryland Judiciary to rethink and revamp the way the courts do business, not only during a global pandemic, but also in the years to come. There was a clear call to provide solutions quickly and efficiently to meet the needs of the Judiciary when the courts reduced operations to emergency proceedings in March 2020. Spearheading this massive overhaul of court operations was the Maryland Judicial Council's Court Technology Committee working with Judicial Information Systems (JIS).

On March 12, 2020, Maryland Court of Appeals Chief Judge Mary Ellen Barbera issued two administrative orders, including the Statewide Suspension of Non-Essential Judicial Activities due to Emergency and Statewide Suspension of Jury Trials. These orders balanced the need for courts to remain operational with the need to safeguard the health and safety of Judiciary employees and court visitors during the early stages of the global pandemic. The immediate restriction of non-essential functions of the Judiciary, such as in-person proceedings, meetings, travel, and training, paved the way for the courts to shift from in-person to remote operations.

"The Technology Committee knew early on that it would be tasked not only with identifying the best way to continue court operations during a global pandemic but also with creating best practices, sharing new and ongoing concerns, and exploring new technology," said Carroll County Circuit Court Judge Fred S. Hecker, Chair of the Maryland Judicial Council's Court Technology Committee.

The Maryland Judiciary had to work quickly to leverage existing and new technology to support remote capabilities across the state. The Court Technology Committee, along with staff from the Administrative Office of the Courts' JIS, immediately assembled a select group of highly skilled experts to form the Remote Hearings Work Group. This work group identified various resources that could facilitate judicial proceedings using videoconferencing technology. The shift to an updated and more secure remote platform meant there would be the need for an extensive training period, both for Judiciary employees and justice partners, to ensure the prompt and efficient delivery of justice.

"The Judiciary has witnessed first-hand the value of remote proceedings. We expect to continue the use of such platforms in the future, as appropriate, far beyond the pandemic," said Chief Judge Barbera. "Remote judicial proceedings have altered the way we think about and implement court operations. From plea agreements to sentencings to uncontested divorces, the Judiciary has been dedicated to adhering to the mandates of due process and the rule of law while successfully embracing the new technology that allows for these remote proceedings."

In a short period of time, the Remote Hearings Work Group drafted, designed, and produced an in-depth educational curriculum which included step-by-step instructions, training webinars, and an evolving online resource library.

"These guidelines and best practices for remote capabilities have proven to be essential in supporting the Judiciary's mission to provide fair, efficient, and effective justice when in-person proceedings are not possible, practical, or safe," said Judge Hecker.

The COVID-19 pandemic also fast-tracked a new software solution for processing electronic warrant applications and warrants also known as "eWarrants." The Court Technology Committee worked alongside JIS and the Judicial College to successfully implement the use of DocuSign for eWarrants. The ability to simplify the process of transmitting and executing eWarrant applications and warrants between judges and law enforcement officers has proven to be invaluable, especially during the pandemic.

In 2020, the Court Technology Committee's Case Search Subcommittee also successfully completed a thorough investigation into screen scraping, also known as data mining, which has long been a concern and threat to the Judiciary's IT network. Screen scraping is the act of copying information shown on a digital display so it can be used for another purpose. In most cases, it allows a third party to create its own copy of the information and data for commercial or other purposes.

“The Judiciary has witnessed first-hand the value of remote proceedings,” said Chief Judge Barbera. We expect to continue the use of such platforms as appropriate in the future, far beyond the pandemic.”

“Once the data has been harvested from the Judiciary, we no longer control how it is used and, if it is not kept up-to-date, it might cause confusion and, potentially, harm,” said Circuit Court for Montgomery County Judge Margaret Schweitzer, vice-chair of the Case Search Subcommittee. If an employer or a creditor is using a service that has harvested our data via screen scraping, there is a risk that the data is stale and is no longer accurate.”

To remedy the situation, the Court Technology Committee recommended the use of an open source product, such as Completely Automated Public Turing test to tell Computers and Humans Apart (CAPTCHA), to the Judicial Council and it was approved in late 2020. This software limits the use of the Judiciary’s online portal called Case Search, thereby preventing automated data collectors from extracting Judiciary data.

The COVID-19 pandemic has created technological vulnerabilities for many government entities and organizations. A key component to protecting the Maryland Judiciary from security breaches and cyber-attacks remains an educated and alert user community. Despite challenges caused by the pandemic, the Judiciary’s Information Security Education and Awareness Program maintained its popularity and outreach in 2020. Each year, this program tests and assesses Judiciary employees on their ability to assist in keeping the courts’ network systems safe and secure. Judiciary staff had a 94% completion rate for the test given in 2020. Of the 94% of employees who completed the session, more than 50% scored a perfect 100% on the examination.

“Information security is as important now as it was in the pre-pandemic world,” said Judge Hecker. “The participation and performance of our Judiciary employees are a feather in the cap of the Maryland Judiciary.”



The Roadmap to Resuming Jury Trials during a Pandemic



When one pictures a high school gymnasium, an indoor arena, or a state fairground, the image that probably comes to mind is a large exhibition full of giant crowds. But, for the Maryland Judiciary, these venues have been transformed into places where Marylanders can perform their civic duty as prospective jurors in a safe, spacious environment.

In March 2020, when jury trials were suspended, there was no immediate, logical solution for resuming these types of trials in accordance with COVID-19 guidelines outlined by the Centers for Disease Control (CDC) and state and local health departments. Jury trials proved to be an immense challenge for not only the Maryland Judiciary but also for courts across the entire country. After weeks of careful planning and strategizing, the Maryland Judiciary developed viable options to resume jury trials on October 5, 2020, just seven months after the start of the courts’ emergency closures.

“Jurors play an essential part in the judicial system and the courts were not going to move forward with jury trials unless we could do so in a safe and secure manner,” said Judicial Council member and now Court of Special Appeals Judge Laura Ripken, who formerly served as administrative judge for the Fifth Judicial Circuit and chair of the Conference of Circuit Judges (CCJ). “These venues as well as others across the state, including local firehouses, allowed the circuit courts in Maryland to resume jury trials during the COVID-19 pandemic. We had to think outside the box, or the jury box, if you will.”

Throughout the pandemic, the administrative judges and leaders of Maryland’s 24 circuit courts have been working with leadership, including Maryland Judiciary State Court Administrator Pamela Harris and other members of the AOC, to meet the needs of the circuit courts and to develop innovative strategies on how best to

“The safety and security of court employees and those visiting the courts during a pandemic remained a top priority,” said Judge Keith A. Baynes. Months of planning and preparation took place behind the scenes to create a healthy and safe environment for the public, including jurors.”

move forward. A reopening work group chaired by Judge Keith A. Baynes, Circuit Administrative Judge for the Second Judicial Circuit and current chair of the CCJ, was charged with making recommendations to Chief Judge Mary Ellen Barbera regarding the phased reopening of the courts. Each circuit court administrative judge then was tasked with preparing a reopening plan that addressed the needs of their jurisdiction. The plans included important safety protocols, such as mask requirements, health screenings, contactless temperature checks, and social distancing guidelines. Each facility was equipped with hand-sanitizing stations and plexiglass panels to further ensure the safety of all who visit and work in the court.

“The safety and security of court employees and those visiting the courts during a pandemic remained a top priority,” said Judge Baynes. “Months of planning and preparation took place behind the scenes to create a healthy and safe environment for the public, including jurors.”

Throughout 2020, the Maryland Judiciary created and maintained open communications regarding COVID-19 news and updates with its justice partners, as well as the general public. Top leadership spoke directly with the Maryland State Bar Association and administrative judges briefed local bar associations throughout the state. Meetings that were once held in-person were now held remotely and provided members of the legal community, including the state’s attorney, public defenders, private attorneys, and court visitors, with the most accurate and up-to-date information in their jurisdiction.

Convening large groups of potential jurors in a standard jury room or jury box was no longer an option because of potential health risks related to COVID-19 and the inability for jurors to socially distance themselves in smaller spaces. As a result, the Judiciary opted to move forward with unique venues that, to some people, may have been viewed as an unconventional setting for *voir dire*. Nevertheless, the Judiciary proceeded to implement its jury resumption plan during the fifth and final phase of the courts’ resumption of operations.

To help guide the courts, a work group was created and focused on resuming jury trials during the pandemic. The Resumption of Jury Operations in Circuit Courts Work Group was created under the CCJ and chaired by Judge Sheila Tillerson Adams, Circuit Administrative Judge, 7th Judicial Circuit (Calvert, Charles, Prince George’s, & St. Mary’s counties). Under Judge Adams’ direction, the work group designed and drafted a comprehensive report that would later become a roadmap for the circuit courts to help navigate the many challenges related to resuming jury trials during the COVID-19 emergency.

As planning progressed, circuit courts across the state were re-imagining courthouse spaces. The vision was far from a traditional courtroom with a typical jury box. Much more thought and planning was needed to accommodate jury selection, jury trials, and jury deliberations. Space was one of the biggest challenges and jurisdictions knew they would have to be resourceful and creative in their preparations for conducting jury trials.

“We explored and uncovered various options throughout the state and no remote location was off the table when it came to accommodating citizens performing their civic duty,” said Judge Adams. “Jurors need to feel comfortable appearing in any climate, especially during a pandemic. Once we were able to secure these venues in different locations, the work group knew it was going to be vital to communicate the work the Judiciary was doing to accommodate jurors.”

Administrative judges were invited to participate in a fast-paced proactive statewide media campaign to assist in getting the word out about the extensive safety measures being taken by the courts. Numerous media interview opportunities, along with webinars and frequent updates on the Judiciary’s website, paved the way to strengthening the line of communication with the public, specifically those individuals who would soon be called for jury duty.

“Our grassroots approach to connect with Marylanders through various media avenues was very successful,” said Judge Ripken. “The courts were fully functioning in October as projected in the reopening plan. We were prepared and that is why the courts were able to serve the community in a safe manner.”

In the fourth quarter of 2020, the courts were able to resume full operations, but a spike in COVID-19 cases during the holiday season necessitated a return to previous phases.

Since March 2020, the circuit courts of Maryland have been incorporating the latest recommendations of the CDC, the Maryland Department of Health, and local health departments. The phased approach allowed the individual circuit courts to plan for the resumption of additional operations with each increase in phase.

The successful resumption of jury trials was a direct result of the Judiciary’s ability to work collaboratively internally and with external stakeholders.



Courtrooms in the Circuit Court for Prince George’s County are marked with plexiglass screens, signs, and tape to maintain social distancing.



A Call to Action: Maryland's Problem-Solving Courts Find New Ways to Connect during COVID-19

Judge Nicholas Rattal
Circuit Court for Prince George's County
Chair, Specialty Courts and Dockets Committee

When personal struggles, like addiction and mental illness, challenge an individual, human interaction and support can have some of the most significant effects on a person. They are also the basis and foundation on which the Maryland Judiciary's problem-solving courts build their core programs, curriculum, and best practices. But, when the COVID-19 pandemic hit in March 2020, the problem-solving courts were tasked with creating a new and innovative atmosphere to support program participants.

With routine and frequent in-person case management and treatment services eliminated at the start of the pandemic, teams turned to virtual communication platforms to continue their services. This meant case management activities that help maintain sobriety, like drug testing and medication distribution, would need to be restructured to allow teams to manage these activities remotely – both safely and lawfully. Caseworkers also had to identify new ways to effectively monitor the increased risk factors that were unique to individuals with mental health issues or substance use disorder (SUD), such as secondary health problems, food, income, employment, and housing instability.

"The Maryland Judiciary knew participants in the Judiciary's problem-solving court programs would bear the burden of the COVID-19 pandemic much worse than other individuals," said Judge Nicholas Rattal, Chair of the Specialty Courts and

Dockets Committee. "Our teams across the state knew they had their work cut out for them, but they also knew how much our participants needed help, support, and reassurance."

In March, just days after Maryland Court of Appeals Chief Judge Mary Ellen Barbera issued administrative orders restricting court operations in response to the pandemic, the Maryland Judiciary's Office of Problem-Solving Courts (OPSC) convened a statewide teleconference with the state's problem-solving court coordinators, circuit court administrators, and District Court of Maryland administrative clerks. Discussions focused on finding new ways to develop strategies to carry-out the work of Maryland's problem-solving courts, maintaining the quality of services, and managing mental and behavioral health issues.

"The Judiciary had to develop strategies and deploy remote services quickly," said OPSC Director Richard Barton with the Maryland Judiciary's Administrative Office of the Courts. "These solutions had to be sustainable and effective."

As a result, the Maryland Judiciary's problem-solving courts took the following actions in response to the COVID-19 pandemic in calendar year 2020:

- admitted new participants, when and where possible, acknowledging mental health and drug-related crimes would likely increase due to stress and fear caused by the pandemic;
- increased the frequency of contact with participants using multiple teleservice approaches, including social media platforms;
- used all available methods of remote technology to conduct problem-solving court team meetings and compliance hearings;
- identified locations that offer free internet service;
- held virtual graduations and acknowledgement of progress celebrations;
- continued to utilize behavior modification treatments, such as sanctions, incentives, and therapeutic adjustments; and,
- conducted in-person drug testing within locations that reported low COVID-19 infection rates.

By spring 2020, the Maryland Judiciary's problem-solving courts successfully implemented the strategies outlined above and quickly adapted all program requirements to the virtual environment.

"The Maryland Judiciary knew participants within the Judiciary's problem-solving court programs would bear the burden of the COVID-19 pandemic much worse than other individuals," said Judge Nicholas Rattal, Chair of the Specialty Courts and Dockets Committee. "Our teams across the state knew they had their work cut out for them, but they also knew how much our participants needed help, support, and reassurance."

“Much of the difference in admissions between 2019 and 2020 can most likely be attributed to the decrease in arrests throughout Maryland during the stay-at-home order,” said Judge Rattal.

Metrics gathered from the Statewide Maryland Automated Record Tracking (SMART) system during Phases I through IV (March 16, 2020, through October 4, 2020) of the Maryland Judiciary’s COVID-19 phased reopening plan outlined the large effort made by problem-solving court teams.

The SMART metrics reflected increases in case management activities and service referrals but showed a stark decrease in drug testing and court

hearing participation from the same period the previous year. From March 16, 2020, through October 4, 2020, there was an average of 2,691 active participants in problem-solving courts, reflecting a 6.2% increase in participants compared to 2019 when the average number of participants was 2,535.

Despite the global health crisis, the Maryland Judiciary continued to admit new program participants during the pandemic, although, the numbers were low compared to previous years. From March 16, 2020, through October 4, 2020, the Judiciary’s problem-solving courts admitted 322 new participants to drug and mental health court programs. In 2019, more than 1,000 individuals enrolled in programs reflecting a 69% decrease.

“Much of the difference in admissions between 2019 and 2020 can most likely be attributed to the decrease in arrests throughout Maryland during the stay-at-home order,” said Judge Rattal.

Looking ahead, the Maryland Judiciary’s problem-solving courts want to continue to strengthen technological capabilities and education throughout the state. OPSC is hopeful that the innovative solutions from the COVID-19 pandemic will remain long after the pandemic is gone.

“The ability to have remote hearings from residential treatment sites is tremendous for participants,” said Judge Rattal. “We’ve seen first-hand the positive impacts from the use of telehealth services, especially for those individuals with no means of transportation or limitation of services based on their geographic location. Once the pandemic ends, problem-solving courts will be faced with taking the lessons learned and implementing lasting new ways of doing business in a way that measures successes and outcomes.”



Addressing Systemic Inequities in 2020: Equal Justice Committee forms under the Judicial Council

Judge E. Gregory Wells
Court of Special Appeals
Chair, Equal Justice Committee

A series of unsettling events across the nation in 2020 sparked calls for equal justice and court systems across the country, including the Maryland Judiciary, vocalized support for the movement. Like a few fellow chief justices of state courts, Maryland Court of Appeals Chief Judge Mary Ellen Barbera issued a statement to the people of Maryland on June 9, 2020, in response to the country’s civil unrest. Titled the *Statement on Equal Justice Under the Law*, Chief Judge Barbera said, in part, “We must, individually and collectively, contribute in any way we can to overcome the bias that divides and imperils our civil society...” adding that, “We must assure that our courts do not suffer bias, conscious or unconscious.”

Chief Judge Barbera’s statement was the first step for the Maryland Judiciary in responding to this historic movement in 2020. Thereafter, Chief Judge Barbera created the Equal Justice Committee, the newest committee under the Maryland Judiciary’s Judicial Council. The 40-member committee is comprised of judges from all court levels, administrators, court clerks, and commissioners. Chaired by Judge E. Gregory Wells, Associate Judge, Court of Special Appeals, and staffed by the Administrative Office of the Courts and District Court Headquarters, the committee remains focused on the mission to “. . . strengthen the Judiciary’s commitment to equal justice under law for all.”

“Since its inception, the committee has worked diligently to identify and outline various topics to streamline the work and efforts of the committee,” said Chief Judge Barbera. “This was the first step in identifying goals for calendar year 2020.”

In July, committee members were invited to take the Harvard Implicit Bias Test to gain insight into their own unconscious biases, so they could begin to fully understand and appreciate the impact of such prejudices. "Following the implicit bias test, the first committee meeting was eye-opening for all of us as we engaged in discussions around the fair and equitable administration of justice," said Judge Wells.

The Judiciary has remained dedicated to seeking input and insight from both individuals within the court system and outside of the Judiciary. To assist the committee as it moved forward with meetings, Russell McClain, Associate Dean for Diversity and Inclusion, University of Maryland, Francis King Carey School of Law, agreed to facilitate a discussion with the committee.

The discussion spearheaded the idea to create six subcommittees under the committee to guide the Maryland Judiciary in eliminating policies, practices, or behaviors that may reflect unfair justice. The six subcommittees formed include:

- **Access and Fairness Subcommittee**, chaired by Judge Carlos Acosta, District Court in Montgomery County, examines access and fairness in the justice system. Specifically, the subcommittee will ensure that the Judiciary's programs and services are administered in a fair and equitable manner;
- **Community Outreach Subcommittee**, chaired by Judge Vicki Ballou-Watts, Circuit Court for Baltimore County, provides citizens with an opportunity to interact with the Judiciary in a community-based manner through ongoing dialogue. The subcommittee hopes to increase the public's understanding of how our courts function, the services offered, and their limitations. The goal is to promote trust and confidence in the judicial system and enable the Judiciary to gain a better knowledge of the communities it serves;
- **Diversity and Inclusion Education Subcommittee**, chaired by Judge Yolanda Curtin, Circuit Court for Harford County, is creating a series of mandatory programs for all levels of the Judiciary. Where appropriate, external stakeholders will be invited to help to promote inclusiveness and develop a greater understanding of and appreciation for diversity through education;
- **Operations Subcommittee**, chaired by Judge Robert Greenberg, Circuit Administrative Judge, 6th Judicial Circuit (Frederick & Montgomery counties), and County Administrative Judge, Circuit Court for Montgomery County, formulates recommendations for policies and procedures that will be designed to ensure the fair and equitable treatment of all who work within, utilize the services of, or do business with the Judiciary;
- **Rules Review Subcommittee**, chaired by Judge Daniel Friedman, Court of Special Appeals, reviews both state and local rules to determine whether they contribute to systemic racism or implicit bias. The subcommittee is not limited to the examination of rules but may also explore the impact of statutes and jury instructions that might have unwittingly contributed to inequalities and injustice; and,

- **Sentencing Subcommittee**, chaired by Judge Sheila R. Tillerson Adams, Circuit Administrative Judge, Seventh Judicial Circuit (Calvert, Charles, Prince George's, & St. Mary's counties) considers the impact that sentencing has had on the administration of justice. The subcommittee is gathering data about the potential of racial disparities in sentencing and will offer proposals to combat any racial or gender inequities in sentencing.

"The composition of each of the subcommittees draws on the diversity within the Judiciary," said State Court Administrator Pamela Harris. "Each subcommittee is charged with fostering and developing strategies to achieve goals that will have long-lasting effects on the courts."

The Equal Justice Committee will continue to seek guidance and input from external stakeholders and the general public. The six subcommittees are actively recruiting knowledge and perspective from others, which will be vital to achieving the goal of equal justice for all in Maryland.



The committee strives to recommend initiatives, policies, procedures, and programs that will be valuable to all members of the Judiciary and, more importantly, the people of Maryland. Although, the Judicial Council's Committee on Equal Justice is newly formed, its mission is an ideal both immutable and noble: Equal Justice Under Law for All. Every member of the Judiciary, whether judge, magistrate, commissioner, clerk, administrator, or staff member should recommit themselves to this goal.

Ensuring equal justice is everyone's responsibility. As such, the Maryland Judiciary encourages every individual to voice their concerns and/or suggestions. Feedback can be emailed to equaljusticecommittee@mdcourts.gov.

"It is the mission of this committee to present Chief Judge Barbera and the Judicial Council with well-considered and timely recommendations that we hope will serve to promote equal justice throughout the state for many years to come," said Judge Wells.

"It is the mission of this committee to present Chief Judge Barbera and the Judicial Council with well-considered and timely recommendations that we hope will serve to promote equal justice throughout the state for many years to come," said Judge Wells.

2020 Judicial Council



Pictured Above: Members of the 2020 Judicial Council meet at the beginning of the year in January 2020. (Far Left) Chief Judge Matthew Fader, Judge Keith Baynes, Judge James A. Kenney III (Ret.), Judge Laura Ripken, Pamela Harris, Chief Judge Mary Ellen Barbera, Katherine Hager, Judge Brett Wilson, Judge Dorothy Wilson, Judge Karen Mason, Judge Bonnie Schneider, Roberta Warnken, Judge Patricia Mitchell, Charlene Notarcola, Markisha Gross, Mary Kay Smith, Marina Fevola, Judge Angela Eaves, Judge Pamila Brown, Melissa Batie, Chief Judge John Morrissey (Far Right).

QUICK LINKS

JUDICIAL COUNCIL COMMITTEES/WORK GROUPS

mdcourts.gov/judicialcouncil/committees

PROBLEM SOLVING COURTS ANNUAL REPORT FISCAL YEAR 2020

mdcourts.gov/opscreport

MARYLAND COURTS SELF-HELP CENTER: ONLINE CHAT AND PHONE

mdcourts.gov/selfhelp

REMOTE HEARING TOOLKIT

mdcourts.gov/legalhelp/remotehearing





Maryland Judicial Center
187 Harry S. Truman Parkway
Annapolis, MD 21401
410-260-1488

2020

mdcourts.gov