



Hon. Mary Ellen Barbera, Chair
Chief Judge
Court of Appeals

Matthew T. Barrett, Chair
Conference of Circuit Court Administrators

Melissa Batie, Vice-Chair
Conference of Court Administrators

Hon. Keith A. Baynes, Vice-Chair
Conference of Circuit Judges

Hon. Pamela J. Brown
Howard County District Court

Hon. Matthew J. Fader, Chief Judge
Court of Special Appeals

Markisha Gross, Administrative Clerk
District Court

Pamela Harris
State Court Administrator

Hon. James A. Kenney III, Chair
Senior Judges Committee

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

Cheryl B. Miller, Administrative Clerk
District Court

Hon. Timothy W. Miller Chair
Conference of Circuit Court Clerks

Hon. Patricia L. Mitchell
Montgomery County District Court

Hon. John P. Morrissey, Chief Judge
District Court

Hon. Charlene M. Notarcola, Vice-Chair
Conference of Circuit Court Clerks

Hon. W. Michel Pierson
Circuit Court for Baltimore City

Hon. Gerald V. Purnell
Worcester County District Court

Hon. Laura S. Ripken, Chair
Conference of Circuit Judges

Roberta Warnken, Chief Clerk
District Court

Hon. Alan M. Wilner, Chair
Standing Committee on Rules of
Practice and Procedure

Hon. Brett W. Wilson
Circuit Court for Dorchester County

Hon. Dorothy J. Wilson
Baltimore County District Court

Faye Gaskin, Secretary
(410) 260-1257

MARYLAND JUDICIAL COUNCIL

Meeting Location:

Judicial College Education and Conference Center

Upper Level 4 & 5

MARYLAND JUDICIAL COUNCIL

Minutes

May 29, 2019

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair

Hon. Keith A. Baynes

Hon. Pamela J. Brown

Hon. Karen H. Mason

Hon. Patricia L. Mitchell

Hon. John P. Morrissey

Hon. W. Michel Pierson

Hon. Gerald V. Purnell

Hon. Laura S. Ripken

Hon. Alan M. Wilner

Hon. Brett W. Wilson

Hon. Dorothy J. Wilson

Matthew Barrett

Melissa Batie

Markisha Gross

Pamela Harris

Cheryl Miller

Hon. Timothy Miller

Hon. Charlene Notarcola

Roberta L. Warnken

Others Present:

Hon. Susan H. Hazlett

Hon. Fred S. Hecker

Hon. Lawrence Fletcher-Hill

Hon. Pamela J. White

Hon. Dawne Lindsey

Faye Gaskin

Justin Bernstein

Carole Burkhart

Lou Gieszl

Jeffry Huddleston

Melinda Jensen

Dominique Johnigan

Nadine Maeser

Latasha Nichols

Kelley O'Connor

Pamela Ortiz

Eliana Pangelinan

Suzanne Pelz

Stacey Saunders

Suzanne Schneider

Gillian Tonkin

James Veals

Jamie Walter

A meeting of the Judicial Council was held Wednesday, May 29, 2019, at the Judicial College Education and Conference Center, beginning at 9:35 a.m. Chief Judge Barbera welcomed everyone and then called for approval of the minutes of the March 20, 2019, meeting. Judge Purnell moved for approval of the minutes. Following a second by Judge Baynes, the motion passed.

1. **Maryland ICM Fellows**

Chief Judge Barbera welcomed the Judiciary's three most recently installed Fellows of the National Center for State Court's Institute for Court Management (ICM). She acknowledged their commitment to completing the process, while continuing to perform their jobs and then asked each of them – James Veals, Managing Commissioner, District Court in Wicomico County; Natasha Nichols, Problem-Solving Courts Coordinator, District Court in Dorchester County; and Hon. Dawne Lindsey, Clerk of Court for the Circuit Court for Allegany County – to provide a brief statement about their respective research projects.

Mr. Veals' project focused on developing and implementing a standardized training program for District Court commissioners. He reviewed current training methods, discussed areas of concern, and explored issue resolution. Mr. Veals indicated that his goal is consistency in training which leads to statewide consistency in practice. He added that a training program is essential for reducing errors and improving customer service, which enhances the public's trust and confidence in the Judiciary.

Ms. Nichols researched whether regional veterans' courts should be implemented throughout the United States, with the understanding that small, rural courts have limited resources and that regional courts that serve multiple counties could help to ensure veterans' needs are met. She found that regional veterans' courts can have the same outcomes as programs established for individual courts. Ms. Nichols added that the critical factor is collaborating with stakeholders. Ms. Nichols' research was awarded the Greatest Potential to Contribute to the Theory and Practice of Judicial Administration.

Ms. Lindsey's topic was determining an efficient way to organize and maintain the Maryland Circuit Court Fee Schedule. She explored ways to increase understandability and accessibility, as well as how to ensure the schedule is regularly updated and preserved for reference. Ms. Lindsey was selected by her class to deliver the graduation speech.

2. **Committee Updates**

a. ***Court Operations Committee.***

Judge Brett Wilson provided an update on the work of the Court Operations Committee in Judge Wells' absence. The Joint Subcommittee on Communications and Access to Judicial Information oversaw several enhancements to the data dashboard, which included displaying multiple years of comparative data, as well as new measures for self-help centers and language access.

The Forms Subcommittee continued to review and, where necessary, revise and discard obsolete forms and brochures in response to legislative and rules changes, as well as changes in business processes resulting from the implementation of MDEC. The subcommittee continues to work to reduce the use of paper forms and has encouraged the use of the online versions instead.

Judge Fletcher-Hill, who chairs the Jury Use and Management Subcommittee, briefed the Council on the subcommittee's activities, including a revised grand jury brochure which was

presented to the Council for approval. The brochure is not intended to be comprehensive, but rather to supplement the grand jurors' orientation. The subcommittee also is working on a grand jury video, developing an audit manual for jury offices, and exploring text messaging for jurors.

Judge Baynes moved to recommend to Chief Judge Barbera approval of the Grand Jury Brochure. Following a second by Judge Mitchell, the motion passed. Chief Judge Barbera accepted the Council's recommendation.

Judge Wilson, Jamie Walter, and Dominique Johnigan then provided an overview of the Fiscal Year 2018 Caseflow Assessment on behalf of the Case Management Subcommittee. The appellate data previously was presented, so the focus of their briefing was on the trial courts. Performance within the case time standards improved in nearly all case categories in the District Court over the last two years. The number of cases disposed within standard increased by three percent in civil large and civil small claims cases, while a two percent increase was realized in criminal and traffic payable cases. The percent of traffic must appear cases disposed within standard remained constant at 78 percent. The only decrease occurred in traffic 21-902 (DWI/DUI) cases, which decreased by three percent from Fiscal Year 2017 to Fiscal Year 2018.

There was more variability in performance within the circuit courts. A three percent increase in cases within standard over the last two years was reported in juvenile cases, while a two percent increase occurred in limited divorce cases. The overall goal of 98 percent of cases disposed within the established time standard was achieved in juvenile cases during Fiscal Year 2018. CINA shelter and TPR cases both experienced a three percent decrease, while performance against the time standards decreased by two percent in both foreclosure and CINA non-shelter cases.

Recommended changes to the case time standards were then presented. The Court of Special Appeals requested that a suspension in case aging be applied when there is a CINA case on appeal and the circuit court proceeds with a termination of parental rights. The Court of Special Appeals' order to stay the case would be the suspension start. Chief Judge Morrissey moved that the Council recommend approval of the change to Chief Judge Barbera. Judge Mason seconded the motion, which passed. Chief Judge Barbera accepted the Council's recommendation.

The next recommendation was to apply the 365-day family law standard to the termination of parental rights cases under the Rape Survivor Protection Act. The Court Operations department staff studied the cases over the last year to determine where they might best fit. The cases appear to be following the trajectory of family law cases with hearings not being held until the criminal case concludes, the latter of which has a 180-day case time standard. To date, there have only been four cases. Discussion ensued regarding the rationale for treating the cases differently than regular TPR cases, including the fact that there is no statutory requirement preventing the petitioner from filing the TPR petition before the conclusion of the criminal case. Following the discussion, it was determined that further consideration of the recommendation is warranted before a decision is rendered.

Judge Wilson put forth the third recommendation, which was to add a case stop in instances where the State's Attorney's Office recommends, and the court approves, the defendant's participation in quasi-diversionary programs prior to disposition in the District

Court. Chief Judge Morrissey explained that if the defendant in these cases is found guilty, the disposition is sent to the Motor Vehicle Administration where sanctions are imposed. The court prefers that the defendant be given an opportunity to adhere to a variety of conditions before reporting the disposition to the MVA. The judge would hold the case *sub curia*. Ms. Harris commented that there currently exist suspensions for defined diversionary programs; the quasi diversionary stops are not defined and quite possibly could include any condition the judge places on the defendant. Judge Mitchell discussed the practical concerns with imposing a disposition in these instances, including the potential for the defendant to lose his or her license, as well as the negative impact of postponements on case performance if the judge has to go that route. In response to Chief Judge Barbera's question as to how quasi-diversionary would be defined, it was stated that it is difficult to define because it varies from judge to judge. Judge Ripken voiced her concerns regarding the use of quasi-diversionary programs for things that technically aren't programs. After further discussion, Chief Judge Morrissey moved to table the recommendation until the Case Management Subcommittee has had an opportunity for further discussion. Following a second by Ms. Harris, the motion passed.

The final recommendation was to track defendants separately in civil cases when there are multiple defendants in the District Court. If the recommendation is approved, there is a recommendation to then eliminate the multiple defendant suspension previously approved. Ms. Johnigan commented that her review of the cases determined that in most instances both defendants are served on the same day. She also discussed the programmatic difficulties in implementing the recommendation. A question was raised as to how multiple defendant cases are handled in the circuit courts to which Ms. Johnigan responded that they are treated as a single case that does not end until the entire case is concluded. The logistics of tracking the cases, as well as how consolidated cases are handled was discussed, after which Judge Brown moved that the Council recommend to Chief Judge Barbera that she approve the change. Following a second by Judge Mitchell, the motion passed. Chief Judge Barbera stated that she will take the recommendation under consideration.

Chief Judge Barbera presented Ms. Walter with the National Center for State Court's 2018 Court Statistics Project Reporting Excellence Award. She received one for each appellate court. Ms. Walter noted that Maryland went from reporting in the single digits to 100 percent reporting for the statistics project. Chief Judge Barbera commended Ms. Walter and her staff for their efforts.

b. *Court Access and Community Relations Committee*

Judge White and Pamela Ortiz briefed the Council on the work of the Court Access and Community Relations Committee, highlighting a few accomplishments. The Community Relations Subcommittee completed revisions to the Journalist's Guide, which is digitally published. The Self-Represented Litigants Subcommittee reviewed and approved video library scripts and continued to oversee other initiatives. The Language Access Subcommittee provided guidance for the Court Interpreter Program, worked with the Video Remote Interpreter Work Group on a pilot, and made recommendations for revisions to Rule 1-333 to streamline interpreter *voir dire* and interpreter oath provisions. Judge White noted that there were more than 15,000 court-related events during the year where interpreters were used. Additionally, the Judiciary provides interpretation services for 62 different languages and has more than 460 interpreters in its registry.

Judge White and Ms. Ortiz focused the remainder of their briefing on the Initial Report and Recommendations of the Accessibility and Accommodations Subcommittee. The subcommittee held a series of listening events to gather information on issues/concerns regarding access to justice for individuals with sensory impairments; mental illness, autism and cognitive, intellectual and development disabilities; and seniors, mobility impairments, and disability generally.

Judge White pointed out several issues raised during the listening events, which included the sentiment that navigating the courthouse and its systems can be problematic for individuals with disabilities. She commented that the circuit courts could benefit from education on enhancing juror services. Judge White added that rendering services should be received as rendering services to enable disabled persons to participate in the process. The subcommittee, during its discussions, noted the importance of court personnel learning how to interact with people with autism, mental, or cognitive disabilities.

In addition to synthesizing the information gathered from the listening events, the subcommittee also reviewed how the courts currently address the needs of persons with disabilities. The subcommittee then formulated 28 recommendations, broken down into five broad categories, for consideration. The categories are: notice, requests, types of accommodations, resources, and training and education. Ms. Ortiz noted that many of the recommendations are already in process and that some may overlap. Judge White asked that the Council receive and approve the report in principle.

Chief Judge Barbera stated that she wants to ensure that the Council understands the recommendations, some of which are concerning, particularly those that contain mandates. Judge White clarified that the Committee is seeking approval to continue discussions with other Council committees. Ms. Ortiz added that the first set of recommendations, regarding notice, are already underway. The Access to Justice Department is collaborating with the Fair Practices Department to provide web content to support the courts and they hope to provide a toolkit to assist with understanding how to address accessibility at the counter. The courts have been provided laptops to assist individuals with hearing issues and American Sign Language. The Access to Justice Department wants to provide signage to communicate about resources the court may already have. Ms. Ortiz commented that some of the recommendations may require Rules changes, while others may require more follow-through and vetting. Judge White stated that the goal is to determine ways to enhance access to courts and court systems.

The Council expressed concern with accepting the entire report without fully discussing and understanding all recommendations. Judge Wilner suggested that the Committee consider working with the Rules Committee in a more comprehensive manner to address, in totality, what should be done to help people who need assistance.

Following additional discussion, Pamela Harris moved that the Council recommend that Chief Judge Barbera accept the initial report of the Court Access and Community Relations Committee's Accessibility and Accommodations Subcommittee but acknowledge that the recommendations will be the subject of further study either by the Committee or the Subcommittee. Following a second by Judge Ripken, the motion passed. Chief Judge Barbera accepted the Council's recommendation.

Chief Judge Barbera commented that the report was outstanding, reflective of creative and innovative thinking on how to provide better access to justice.

c. *Court Technology Committee*

Judge Hecker and Jeffrey Huddleston discussed the initiatives of the Court Technology Committee. They reported that MDEC is now operational in 21 of the 24 jurisdictions, as well as in the appellate courts. Montgomery County is scheduled to go-live on MDEC in February 2020. There is a major upgrade planned for the summer of 2019, which will affect all users.

The Hearing Notification Public Judicial Access System (text messaging) has been in pilot since December 2018. Users register through the Public Defender Eligibility application with a commissioner, primarily for criminal cases that originate in the District Court. Through April 2019, there have been approximately 19,700 cases with 16,500 distinct telephone numbers registered to receive notifications of court events via text messaging. Approximately 9,000 reminders have been sent for 10,500 court appearances. There has been a 95 percent appearance rate for registrants. The Committee is exploring ways to expand the program.

The Department of Technology Education is developing a quick reference guide to assist individuals who want to preserve their email messages longer than the 18 months permitted by the policy, which will go into effect by the end of the calendar year. Judge Hecker noted that three jurisdictions still need to be migrated to the Judiciary's email system – Carroll, Montgomery, and Prince George's counties.

The first year of the Security Awareness and Education Program (Wombat) was successful with a 97 percent completion rate. The second year is underway. The Committee is conducting its annual review and update, where necessary, of the Information Security Policy.

With respect to the Attorney Information System (AIS), the deadline for registration is quickly approaching. Approximately 88 percent of all active attorneys have registered. Judges are required to register as well. A portal was set up at the Judicial Conference to assist judges in registering. JIS staff are planning to attend the annual meeting of the Maryland State Bar Association to assist attorneys with registering.

Judge Hecker discussed a couple infrastructure items, including Virtual Desktop Infrastructure (VDI), which allows users to remotely access their desktops. There currently are 1,500 users enrolled. JIS is continuing to review and enhance, where possible, collaboration tools such as ShareFile.

The CaseSearch Subcommittee has focused its attention on screen scraping and its impact, particularly with cases with a large number of parties. The system gets bogged down and performance is impacted for everyone. The issue is being reviewed to restrict remote access to those types of cases. The user will be instructed to visit the courthouse to review the case files.

The Videoconferencing Subcommittee is exploring ways to allow the public to participate via video conferencing; they will need guidance on how to advise the public of the ability to access video conferencing. JIS continues to work to enhance the technology used.

The upgrade to Windows 10 is continuing with Montgomery and Prince George's counties and Baltimore City still to be converted.

d. *District Court Chief Judge's Committee*

Chief Judge Morrissey reported on the work of the District Court Chief Judge's Committee, noting that the Committee has met twice since the last report. He provided extreme risk protective order (ERPO) statistics, including the number of filings, emergency evaluations ordered, hearings held, and orders granted. Additionally, Justice Reinvestment Act statistics, specifically concerning the number and nature of sentences for technical violations, were provided.

Chief Judge Morrissey gave a summary of the topics discussed at the Committee's meetings, which included among other topics the District Court's Facilities Master Plan, noting that the new Catonsville courthouse is on track; security training for bailiffs, including evacuating buildings and administering Narcan; formation of a work group to develop a standalone training for new law clerks; creation of a bail review advice video; a discussion on how to balance review of a domestic violence respondent's criminal background with not becoming an investigative body; and discussion of the expungement manual.

Chief Judge Morrissey distributed a bench card developed for District Court judges on domestically related crimes/disqualifying crimes.

e. *Education Committee*

Judge Hazlett highlighted some of the activities of the Education Committee, including the launching of training webinars that allows judges to complete up to six of the required twelve annual education hours; moving the New Trial Judge Orientation program from Mt. Washington to Turf Valley Resort; the upcoming Mental Health Communication course offered by the Office of Professional Development; preparation for District Court Rules training for staff with circuit court training to follow; implementation of the New Employee Technology Orientation training programs for judges and employees; and launching of the proficiency-based education for commissioners. The Committee also met with the Specialty Courts and Dockets Committee to discuss possible areas of collaboration, out of which came several suggestions for moving forward with educational opportunities.

Judge Hazlett and Judge White then discussed the online judicial ethics course that is mandatory for all new judges and magistrates. They requested that the Council approve making the course, as well as a judicial ethics online refresher course to be offered every five years, mandatory for all judges and magistrates. They recommended modeling the course after the Wombat security training, rolling it out each quarter with judges and magistrates having 90 days to complete the modules. Judge White noted that the Code of Judicial Conduct is the basis for the Court Access and Community Relations Committee's projects.

Chief Judge Morrissey moved to recommend to Chief Judge Barbera approval to make the courses mandatory for all judges and magistrates. Following a second by Judge Ripken, the motion passed. Chief Judge Barbera accepted the Council's recommendation.

Judge Hazlett then discussed where the Judicial Conference and the Leadership Conference should be housed, commenting that it would be more appropriate to have them officially under the Education Committee and its Judicial Education and Professional Development Subcommittees, respectively. Judge Hazlett further suggested that the Education Committee be responsible for the programming of the Judicial Conference, and that the Council adopt the format of the 2019 Conference as the official format.

Judge Ripken moved to recommend to Chief Judge Barbera approval of the recommendation to officially put the Judicial Conference and the Leadership Conference under the Education Committee and to adopt the format of the 2019 Judicial Conference as the official format going forward. Following a second by Judge Dorothy Wilson, the motion passed. Chief Judge Barbera accepted the Council's recommendation.

f. *Legislative Committee*

Chief Judge Morrissey provided a summary of the 2019 Legislative Session. The Legislative Committee analyzed 2,400 bills, specifically focusing on 668 and submitted position papers on 215 bills of which 126 were in opposition. Of the 126 bills that were opposed, 124 either failed or were amended to address the Judiciary's concerns.

A number of bills were highlighted, including a bill to add seven judgeships, six in the District Court and one in the circuit court; a bill to rename the State Law Library to the Thurgood Marshall State Law Library; a bill to increase the length of time of a criminal sentence that disqualifies an individual from serving on a jury; a bill on human trafficking and prostitution offenses to include renaming "human trafficking" as "sex trafficking;" and a bill that establishes the offense of labor trafficking. Chief Judge Morrissey also mentioned a bill that establishes the Juvenile Justice Reform Council whose duties include developing a data-driven approach to reduce recidivism of youth offenders and a bill that establishes the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations.

Several expungement bills failed, as did bills to address judicial elections and the mandatory retirement ages for judges. Other bills of interest to the Judiciary that failed included a bill to rename the Court of Appeals and the Court of Special Appeals; a bill to permit cameras in the courtroom; an asbestos mediation bill; and a bill to grant the right to a jury trial for a final protective order or a final extreme risk protective order.

Chief Judge Barbera thanked each of the committees for their efforts and the great work they continue to perform.

3. Resolution

Chief Judge Barbera presented Timothy Miller with a plaque in acknowledgement of and appreciation for his contribution to the administration of justice on the occasion of his impending retirement.

There being no further business, the meeting adjourned at 12:45 p.m. The next meeting is scheduled for September 25, 2019, beginning 9:30 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Faye Gaskin".

Faye Gaskin