



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. Patricia L. Mitchell
Montgomery County District Court

Hon. John P. Morrissey, Chief Judge
District Court

Hon. Charlene M. Notarcola, Acting-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

Vacant, Vice-Chair
Conference of Circuit Court Clerks

Faye Gaskin, Secretary
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MARYLAND JUDICIAL COUNCIL

Meeting Location:

Judicial College Education and Conference Center

Upper Level 4 & 5

MARYLAND JUDICIAL COUNCIL

Minutes

September 25, 2019

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair

Hon. Pamela J. Brown

Hon. Matthew J. Fader

Hon. James Kenney III

Hon. Karen H. Mason

Hon. Patricia L. Mitchell

Hon. John P. Morrissey

Hon. W. Michel Pierson

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. Charlene Notarcola

Roberta L. Warnken

Others Present:

Hon. Cynthia Callahan

Hon. Mimi Cooper

Hon. Nicholas Rattal

Faye Gaskin

Renee Abbott

Gray Barton

Carole Burkhart

Lou Gieszl

Jay Knight

Eliana Pangelinan

Jonathan Rosenthal

Stacey Saunders

Suzanne Schneider

Nisa Subasinghe

Jason Thomas

Gillian Tonkin

A meeting of the Judicial Council was held Wednesday, September 25, 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 May 29, 2019, meeting. Judge Mitchell moved for approval of the minutes. Following a second by Judge Dorothy Wilson, the motion passed.

1. IT Infrastructure Security

Renee Abbott and Jason Thomas, Judicial Information Systems, provided an overview of the measures put in place to ensure that the Judiciary's infrastructure is secure. One such measure is the security training program that is mandatory for all users of Judiciary-issued equipment. The online, self-paced training is conducted quarterly. Ms. Abbott noted that the Administrative Office of the Courts recently entered into a contractual agreement with a new vendor to provide the training and that a new training module will be released soon. Mr. Thomas then discussed the multiple layers of security that serve as a defense to intrusion into the network, data, and applications. He commented that the multiple layers of security, or defense, are intended to make it so difficult that potential intruders will move on to another target. Additionally, JIS severely limits the people who have administrative-level rights unless absolutely required to perform their jobs; less than four people have full administrative rights over JIS' environment.

Mr. Thomas and Ms. Abbott spoke briefly about the top cyber threats by country, stating that the attackers don't necessarily come from the country noted, but because of the level of sophistication, it is made to appear that they are coming from a country other than the country of origin. As such, it is more difficult to track. With respect to JIS, the largest threat comes from phishing emails where the attacker tries to get the user to click on infected links.

JIS will continue to examine data access patterns to determine if they change over time. If so, the user will be contacted to determine what has changed and whether there is a potential threat. This will be done through artificial intelligence which can analyze usage patterns and examine back-up data for threats. JIS also will use an external security incident and event management service to monitor the network 24/7 and alert JIS of any suspicious activity. This service alleviates the need for JIS to manually monitor the network.

Chief Judge Barbera inquired about the Judiciary's standing with respect to security protocols to which Mr. Thomas responded that the Judiciary is one of the top leaders in state government and has been acknowledged as such. He added that JIS is vigilant in its review of changing technologies in this area and continues to refresh and replace, as necessary, the tools being used. Ms. Abbott stated that no one can ever be 100 percent safe, but JIS continues to put protocols and systems in place to be in the best position to avert attacks, which doesn't just require money but everyone at JIS being security-focused.

Chief Judge Barbera thanked them for their hard work, stating that the type of focus to security demonstrated by JIS is necessary and is much appreciated.

Chief Judge Morrissey commented on the possibility of exploring cyber insurance, which would not cover the cost of lost data or pay any ransom but would assist with damage control, including communications, management of the crisis, etc. He noted that it is a relatively new product that should be considered.

2. Strategic Plan

Lou Gieszl updated the Judicial Council on the Judiciary's strategic plan, reviewing the mission, vision, and goals that were established by the Council along with the 2015-2020 strategic plan. Mr. Gieszl noted that everything the Maryland Judiciary does is aligned with one of the eight strategic goals. He discussed the two publications that are published annually to highlight the accomplishments of the entities within the Judiciary – the Strategic Plan Update and the Judicial Council's Annual Report, as well as the tool used to track the progress of the committees' goals and objectives throughout the year.

Mr. Gieszl then highlighted some of the 2019 accomplishments of the committees, associating them with the eight strategic goals. Among the accomplishments were developing six new standby guardianship forms, updating the expungement manual, and adding a field trip course to youth rehabilitation centers where judges and magistrates are given a first-hand view of the services provided to youth in those facilities.

3. Committee Updates

a. *Alternative Dispute Resolution Committee*

Judge Mimi Cooper and Jonathan Rosenthal, MACRO, briefed the Council on the work of the Alternative Dispute Resolution (ADR) Committee. Judge Cooper noted that the District Court's ADR program held its annual appreciation and continuing education event where the 275-300 volunteer mediators who provided services were honored and the courts were thanked for their continued efforts. During the year, the mediation program in the Court of Special Appeals held a similar program where Neuroscience of Mediation was the topic of discussion.

The Committee is working with the Domestic Law Committee's Guardianship and Vulnerable Adults Work Group on guardianship mediation training to identify best practices for mediators and to identify pilot sites. The goal is to build capacity for guardianship mediation.

The Committee continues to promote availability of ADR services, technical assistance, and grant funding to the courts. Mr. Rosenthal reported that 9 courts received grant funding, along with 20 justice partners.

Mention was made of a pilot program in Baltimore City to attempt to have jury trial prayer cases mediated prior to the trial date, as well as a pilot program for mediation of failure to pay rent cases, peace order cases, and the use of case information forms in day of trial cases in the District Court. Judge Dorothy Wilson clarified that the jury trial prayer pilot is limited to a certain subset of criminal cases related to person crimes; drug and weapons offenses are not included.

The Research and Grants Subcommittee has been instrumental in helping MACRO determine what data are collected on the use of ADR in the circuit courts, as well as data on grant-funded programs. The data is helping MACRO to understand how the programs are working and what, if any, adjustments are needed.

Judge Cooper discussed the Salisbury University's study on the impact on litigants of what District Court judges say from the bench when introducing the availability of ADR. She provided an example that when judges indicate that the services are free, litigants seemingly are

less likely to use the service, but are more likely to participate if judges note that the mediator has the requisite qualifications. The Committee will discuss the study at its upcoming meeting. The report and summary will be shared with the Council.

Judge Cooper requested the Council's approval for a new ADR Committee subcommittee, ADR in the Maryland Rules Subcommittee. She stated that the Title 17 rules have not been reviewed since 2012 and a lot has changed in the ADR landscape since then. The subcommittee, if approved, will review the rules and prepare a report with recommended changes for the Rules Committee's consideration. Judge Cooper anticipates that the review process will take approximately 18 months.

Judge Wilner moved to recommend approval of the ADR in the Maryland Rules Subcommittee to review the ADR process within the Rules. Following a second by Judge Dorothy Wilson, the motion passed. Chief Judge Barbera accepted the Council's recommendation.

The Committee also is forming a new work group, Mediation Quality Assurance for Programs and Practitioners Work Group, that will assist in improving ADR programs and the level of practice and service, fees, and accessibility in court and community programs.

b. *Domestic Law Committee*

Judge Cynthia Callahan provided an update on the work of the Domestic Law Committee. The Committee created a new bench card for the District Court on domestically-related crimes; the bench card for the circuit courts is being developed. Additionally, the Domestic Violence Resource Manual was updated. Child counsel training was conducted in April and will be done again in October.

The Domestic Violence/Peace Order Subcommittee is working on several projects, including transfers of motions for contempt and modification. The work group concluded that there may have to be some modifications to the Rules but tabled that discussion until MDEC is implemented statewide. The work group also determined that it would be best to wait for MDEC to be fully-implemented in order to address issues with consistent, comparable, and reliable statistics. The work group also is examining rescission requests for protective orders to determine what transpires between issuance of the order and the request to rescind to ensure the petitioner isn't being bullied.

Judge Callahan highlighted the work of the Committee's four work groups. The Court Process Work Group submitted the Parenting Plan Proposal to the Rules Committee and the proposed Rule has been included in the 201st Rules Report. If the Rule is approved, the Committee will begin a series of training sessions. The Custody Evaluator Standard and Training Work Group is developing best practices to include in a training program. The Domestic Forms Work Group is continuing its work on revising the forms, modifying where necessary and ensuring that the forms are consistent for ease of use and understanding by self-represented litigants. The Special Status Work Group is focusing its efforts on developing a consistent Judiciary-wide process for handling visas for Special Immigrant Juvenile Status individuals.

The Guardianship and Vulnerable Adults Work Group is focusing a significant amount of

its efforts on training initiatives. The work group held a guardianship symposium in March and is planning one for 2020 that will focus on monitoring guardianship of property. Judicial education courses, Adult Guardianship 101 and Elder Abuse, were conducted in September and Guardianship Court-Appointed Attorney Training programs were developed, one for September and another to be held in October. In November, Elder/Adult Guardianship Mediation training will be held. In addition to training, the work group is reviewing guardianship forms for consistency, as well as resources for guardians. Judge Callahan acknowledged Judge Jensen and Nisa Subasinghe for their tireless efforts in this area.

c. *Major Projects Committee*

Chief Judge Morrissey updated the Council on the work of the Major Projects Committee, noting that it formerly served as a subcommittee (MDEC Executive Steering Subcommittee) under the Court Technology Committee. The Major Projects Committee focuses on policy-related matters, while the Court Technology Committee's focus is operational.

The Committee meets bi-weekly for the better part of a day, dealing primarily with the continued implementation of MDEC and any issues/concerns that may arise or development that has to be approved. Plans for implementing in Montgomery County are well underway and the kickoff for Prince George's County is scheduled for September 2019. The Committee is beginning to work with Baltimore City as the courts prepare for implementation activities following Prince George's County. Baltimore City will be the last jurisdiction to implement MDEC.

There is one subcommittee, MDEC Advisory Subcommittee, the rotating membership of which includes representatives from the last jurisdiction to implement and the next jurisdiction to implement, as well as JIS, District Court Headquarters, and administration from the Administrative Office of the Courts. In addition, there is an MDEC Users Group comprised of subject matter experts (SMEs) from the MDEC jurisdictions who discuss concerns and suggestions for business process improvements.

The Committee has made several policy-related decisions, including best practices on deficiencies and strikings, and back scanning; system functionality; government agency access to MDEC; access to Secure Case Search; and contract negotiations.

Other Committee initiatives include working with Tyler Technologies and the Montgomery County State's Attorney's Office on a juvenile e-filing solution, implementing the text notification pilot; expanding the vendor electronic service providers beyond Tyler Technologies; and working with Judge Wilner on the distinction between shielding and sealing and the impact on operations.

d. *Specialty Courts and Dockets Committee*

Judge Nicholas Rattal and Gray Barton highlighted some of the initiatives of the Specialty Courts and Dockets Committee, noting that the majority of what the Committee does revolve around problem-solving courts. In addition to ensuring that the programs utilize best practices, the Committee monitors and directs evaluation of the training programs, technical assistance, research, funding, and support.

The Business and Technology Case Management Subcommittee formed a work group to formulate recommendations on various aspects of business and technology, such as assignment of judges, selection of cases, appeals process, and resources for courts. The work group, which comprises judges, practitioners, and business/community leaders, has had two meetings and is working on its draft report. The report will be vetted through the Committee, and then sent to the Conference of Circuit Judges and the Council.

The Mental Health, Alcoholism, and Addictions Subcommittee has worked on a number of items, including reducing delays in placement, proposals for behavioral health education for judges, and mental health performance measures. The performance measures include timeliness between key milestones, compliance with medication, living arrangements, and aftercare, among others. Judge Rattal noted that the mental health community has embraced the measures. The subcommittee created best practices and benchmarks for mental health courts; previously, recidivism was the only benchmark used. Training will be provided to problem-solving court personnel on how to utilize the performance measures to more effectively manage the performance of those courts.

Judge Rattal requested approval to change the name of the Mental Health, Alcoholism, and Addictions Subcommittee to the Behavioral Health and Developmental Disability Subcommittee. Mr. Barton commented that in the past, the disorders were viewed either as mental health or addiction, but now are dual-diagnosis (behavioral health). Judge Mitchell moved that the subcommittee's name be changed from Mental Health, Alcoholism, and Addictions to Behavioral Health and Developmental Disability. Judge Brown seconded the motion.

Judge Pierson inquired about use of the term "developmental disability," noting that it does not appear to encompass the conditions that would be the focus of the subcommittee. Judge Mitchell acknowledged concern with the verbiage, noting that a lot of people who participate in problem-solving courts are not only compromised by substance abuse, but their issues are exacerbated by developmental disabilities. She added that the State now uses Behavioral Health instead of Health and Mental Hygiene. Chief Judge Morrissey noted that the Behavioral Health Administration covers developmental disabilities.

Judge Brown asked if any consideration was given to just using Behavioral Health to which Mr. Barton responded that it was the original thought, but developmental disabilities was added to make sure those issues are not forgotten. Judge Brown offered a friendly amendment to the motion to recommend the name of the subcommittee be changed to the Behavioral Health Subcommittee. Judge Mitchell accepted the amendment and the motion passed. Chief Judge Barbera accepted the Council's recommendation to change the name of the subcommittee.

The Problem-Solving Courts Subcommittee submitted for approval five additional problem-solving courts, all of which were approved. In addition, four are in various stages of planning, including three in Baltimore County.

Nearly \$9 million in grant funding was awarded for problem-solving courts for Fiscal Year 2019, including nearly \$700,000 in federal High Intensity Drug Trafficking Area (HIDTA) grants to drug courts. Mr. Barton noted that Maryland is the only State in the country to receive

HIDTA funds with treatment dollars directed for drug courts.

Chief Judge Barbera thanked the committee members and staff for their efforts in moving forward the mission and vision of the Judiciary.

There being no further business, the meeting adjourned at noon. The next meeting is scheduled for November 20, 2019, beginning 9:30 a.m.

Respectfully submitted,

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

Faye Gaskin