



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

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

Hon. Pamela J. Brown
District Court in Howard County

Hon. Audrey J. S. Carrión
Vice-Chair, Conference of Circuit Judges

Hon. Karen Christy Holt Chesser
District Court in St. Mary's County

Hon. Angela M. Eaves
Circuit Court for Harford County

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

Marina Fevola
Chair, Conference of Circuit Court
Administrators

Hon. Jeffrey S. Getty
Circuit Court for Allegany County

Markisha Gross, Administrative Clerk
District Court in Montgomery County

Hon. Katherine Hager
Chair, Conference of Circuit Court Clerks

Pamela Harris
State Court Administrator

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

Hon. Donine Carrington Martin
Circuit Court for Charles County

Hon. John P. Morrissey, Chief Judge
District Court of Maryland

Hon. Bonnie G. Schneider
District Court in Cecil County

Hon. Kathy P. Smith
Vice-Chair, Conference of Circuit Court Clerks

Mary K. Smith, Administrative Clerk
District Court in Howard County

Roberta Warnken, Chief Clerk
District Court of Maryland

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

Hon. Dorothy J. Wilson
District Court in Baltimore County

Burgess Wood
Vice-Chair, Conference of Circuit Court
Administrators

Faye Gaskin, Secretary
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MARYLAND JUDICIAL COUNCIL

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Minutes
March 24, 2021

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair
Hon. Keith Baynes
Hon. Pamela J. Brown
Hon. Audrey J.S. Carrión
Hon. Karen Holt Chesser
Hon. Angela M. Eaves
Hon. Matthew J. Fader
Hon. Jeffrey Getty
Hon. James Kenney, III
Hon. Donine Carrington Martin
Hon. John P. Morrissey
Hon. Bonnie G. Schneider
Hon. Alan M. Wilner
Hon. Dorothy J. Wilson
Markisha Gross
Hon. Katherine Hager
Pamela Harris
Hon. Kathy Smith
Mary Kay Smith
Roberta L. Warnken
Burgess Wood

Others Present:

Hon. Glenn Klavans
Hon. Fred Hecker
Hon. Michael Stamm
Faye Gaskin
Suzanne Schneider
Richard Abbott
Robert Bruchalski
Carole Burkhart
Hope Gary
Lou Gieszl
Abigail Hill
Jeff Huddleston
Sarah Kaplan
Kelley O'Connor
Eliana Pangelinan
Gillian Tonkin
Jamie Walter

A meeting of the Judicial Council was held Wednesday, March 24, 2021, via Zoom for Government. The meeting began at 9:30 a.m. Chief Judge Barbera welcomed everyone and advised that the meeting was being live-streamed pursuant to the Open Meetings Act. Judge Brown moved for adoption of the minutes of the January 27, 2021, meeting. Following a second by Judge Getty, the motion passed.

1. **Court Operations Committee's Grant-Funded Positions Work Group**

Judge Klavans and Lou Gieszl presented the report and recommendations of the Court Operations Committee's Grant-Funded Positions Work Group. Judge Klavans noted that the work group was formed in 2019 to follow-up on a recommendation from the now defunct Courthouse Equity Subcommittee concerning pay equity and grant-funded employees' compensation. While the subcommittee did not find any discernible patterns of inequity in grant funding overall, the members noted that the differences in compensation warranted further study. The work group, which comprised representatives from the court administrators, District Court Headquarters, and the Administrative Office of the Courts, was tasked with formulating recommendations regarding grant-funded employee compensation and equity.

The work group embarked upon its task by reviewing grant terms and conditions, job descriptions for grant-funded employees, and survey results from court administrators regarding how issues such as pay increases, that affect grant-funded employees are handled. The work group determined that there are several factors that contribute to the perceived inequity in compensation including, but not limited to, the need to balance concerns for internal equity with concerns for cross-jurisdictional equity; the need to balance the salaries of grant-funded employees with those of locally-funded court employees; and, the need to determine if grant-funded employees receive COLA and merit increases at the same level as locally-funded employees or at the level indicated in the grant award.

The following recommendations were formulated by the work group and vetted by the Court Operations Committee and the Conference of Circuit Judges:

- Court administrators should follow local HR rules to classify, and when warranted reclassify, positions per Judiciary General Grant Conditions.
- Court administrators should use grant application and grant modification processes to request additional funding when positions are reclassified.
- AOC should make clear to grantees that budgeted amounts for positions can be changed through a budget modification process when needed due to salary reclassification, turnover, a change in life circumstances, or budget reductions.
- AOC should provide court administrators information about established state minimum, midpoint, and maximum salary amounts for state positions that may be comparable to grant-funded positions including, but not limited to, Problem-Solving Court Coordinators and Case Managers, using the Maryland Judiciary Pay Scale.
- AOC should identify core grant-funded positions – those present in all or most courts statewide – and the market minimums/maximums for those positions and track annually the extent to which these employees are or are not up at least to market minimum pay.
- AOC should notify grant applicants during the grant review process if it appears that they have a position that may be being paid below market minimum.
- AOC should direct communications about merits, COLA's, and other salary adjustments to court administrators instead of circuit court employees.

Judge Klavans noted that, going forward, any pay equity concerns should be directed to the Court Operations Committee for review. Additionally, court leadership is encouraged to review all positions and to take advantage of opportunities regarding grant-funded employees.

Judge Getty remarked that it would be helpful if communications are sent to court

administration rather than directly to the employees. Doing so would help to alleviate issues such as those that arise because of differences in pay between locally funded and grant-funded employees. Judge Klavans noted that the work group considered how to more effectively communicate information and formulated a recommendation to ensure the information is appropriately disseminated.

Ms. Harris moved that the Judicial Council recommend to Chief Judge Barbera adoption of the Grant-Funded Positions Work Group Report and Recommendations. Following a second by Judge Carrington Martin, the motion passed. Chief Judge Barbera accepted the Council's recommendation.

Chief Judge Barbera applauded the work of the work group and the Court Operations Committee, noting the importance of the project.

2. Committee/ Strategic Initiative Updates

- a. ***Court Technology Committee.*** Judge Hecker updated the Council on the activities of the Court Technology Committee, its subcommittees, and its work groups. He remarked that implementation of virtual court through Zoom for Government has been a universal success. Judge Hecker stated that the technology is adaptable to use by the courts, that judicial officers are comfortable with the technology, and that they have learned to use it effectively. One feature that has been particularly helpful is the remote interpreter function which allows individuals seeking language assistance to receive it remotely. He added that it is probable that the courts will continue to utilize the technology for a variety of virtual proceedings after the pandemic.

To ensure the effective and efficient implementation and utilization of remote technology, the Committee formed the Remote Hearings Work Group which helped to create workflows, protocols, processes, and bench book guidelines. Judge Hecker stated that there were more than 35,000 remote meetings in 2020; thus far in 2021 (through February), there have been more than 23,000 meetings. The Rules Committee is considering new Rules and amendments to existing Rules to permit the use of the technology for jury trials.

In 2020, the Committee and Judicial Information Systems (JIS) were instrumental in facilitating the expanded use of Virtual Desktop Infrastructure (VDI) throughout the Judiciary, thus enabling individuals to work remotely during the pandemic. There currently are 800 concurrent VDI sessions.

Judge Hecker noted that JIS continues to develop memorandums of understanding and rollout equipment to further the use of remote technology. Additionally, plans to implement multi-factor authentication (MFA) to enhance security are underway. MFA requires a secondary means by which users must identify themselves to access systems/applications from outside the Judiciary's network.

Judge Wilner stated that the Rules changes to permit remote jury trials has been sent to the full Rules Committee from the subcommittee. It is anticipated that they will be sent to the Court of Appeals soon.

Since the last time the Committee reported to the Council, a new Continuity of

Operations platform was acquired to better support and document COOP and disaster preparedness plans. DocuSign was adopted to use with the eWarrant system, which has been extremely helpful during the pandemic as the technology supported remote processing of warrants. Approximately 21,000 electronic warrants have been processed since implementation of this software, compared to 6,000 using the old technology. The number of judges registered to utilize the technology also increased from 126 to 240. Judge Hecker stated that there is legislation that would permit the use of electronic warrants for cell sites. He anticipates an increase in the types of applications for which DocuSign will be used. Security awareness training continued during the pandemic with the Circuit Court for Caroline County winning the Evergam Cup.

The Judicial Council previously approved the use of CAPTCHA to reduce the use of automatic screen scraping of Judiciary data through CaseSearch. The planned implementation is September 1, 2021.

Chief Judge Barbera inquired about the status of the COOP plans to which Ms. Harris remarked that the courts are responsible for reviewing and ensuring their plans are updated; approximately 90 percent have been updated. She added that within the last year, software has been implemented that is more user-friendly and will greatly assist with reviewing and updating COOP plans. The existing plans, unfortunately, did not consider an emergency the breadth and depth of a pandemic. Chief Judge Barbera stated that with all that has occurred as a result of the pandemic and the widespread impacts, it is necessary to have various levels of communication.

Judge Hecker stated that it makes sense to have a centralized system for retrieving local courts' COOP plans and to have a coordinated response in the event of an emergency. The Committee will discuss the matter and report back to the Council.

Judge Wilner suggested periodically conducting tabletop exercises to simulate how the plans would work and to make any necessary changes. Chief Judge Barbera mentioned a recent National Center for State Courts' publication on how to approach updating COOP plans that might be helpful. Judge Carrion discussed the importance of regular reviews of the COOP plans and, at this juncture, the courts reflecting on what they would have done differently and incorporating lessons learned into their plans. She added that the NCSC has been doing a nationwide survey of courts to ascertain information about their experiences.

Chief Judge Morrissey remarked that the Court Technology and Major Projects Committees, as well as JIS have been incredible throughout the pandemic. They have been innovative and accomplished all that was asked of them. Early on, Judiciary leadership worked with MEMA who was instrumental in helping to secure supplies. Leadership continues to converse with MEMA weekly to ensure everyone is up to date with essential information.

- b. ***Juvenile Law Committee.*** Judge Stamm briefed the Council regarding the activities of the Juvenile Law Committee, its subcommittees, and work groups. He noted that it had been a challenging year, but regular meetings continued and weekly meetings with the Department of Juvenile Services were scheduled from April through August and now

are held bi-monthly. During the meetings, a variety of topics are discussed, including COVID testing and infection information for all DJS facilities, virtual case management community services for youth and their families, and plans for when the pandemic ends.

The Foster Care Court Improvement Program Subcommittee continued to monitor federal mandates for foster care deadlines and developed tools for the bench and bar to assist with maintaining the caseload and ensuring nothing languished. The Child Welfare Education Work Group began work on an *on demand* C.A.N.D.O. series to include nuts and bolts, as well as case law updates. The work group also continued to review the Child Welfare Bench Book. A FCCIP Pandemic Plan of Action Work Group was formed to discuss the impact of the pandemic on dependency cases and how to effectively move forward.

The Juvenile Rules Work Group continued its work on redrafting the Juvenile Rules, submitting a complete draft of several chapters for review by the Rules Committee's Juvenile Subcommittee. Judge Wilner stated that the Rules are being presented in stages to the full Rules Committee in April and the hope is have them completed late spring or early summer.

The Juvenile Forms Work Group, of the Juvenile Justice Subcommittee, began efforts to develop forms for delinquency, citations, and juvenile peace order proceedings that address all stages of the proceedings. The subcommittee approved the initial forms on peace orders and competency proceedings, which are now being reviewed by various stakeholders. The subcommittee is discussing with the Education Committee and the Judicial College the creation of a Juvenile Law University to ensure judges and magistrates are kept abreast of juvenile laws, Rules, and policies.

Judge Stamm remarked that an advantage garnered from the administrative orders is that they compelled several issues concerning hearing and detention to be addressed. Detention is now reviewed every 14 days instead of every 28 days and young people are being sent to residential programs. He is hopeful that some of the processes established can continue post pandemic.

Chief Judge Barbera expressed her amazement at the amount of work accomplished, adding that the pandemic provided an opportunity to think outside the box. She acknowledged the hard work of the committees, its subcommittees and work groups, staff, and others who worked together to ensure the Judiciary's mission continued to be fulfilled even in the midst of the pandemic.

3. For the Good of the Order

Judge Baynes inquired about the platform for Judicial Council meetings going forward – whether they would be remote or in-person. Chief Judge Barbera stated that, for now, caution must be exercised but, when appropriate, consideration can be given to having some meetings in-person and some remote, noting the benefits of both.

Judge Carrington Martin stated that the Rules Review Subcommittee of the Equal Justice Committee sent a survey regarding thoughts on the presence of implicit bias in the Maryland

Rules. She asked that everyone respond to the survey so that the subcommittee could have a broad range of responses. In addition, the subcommittee is planning listening sessions, scheduled around topical areas, with the same purpose in mind. The subcommittee wants to be as inclusive as possible and, as such, Judge Carrington Martin asked the Council to forward to her the email addresses of community groups or stakeholders to whom information regarding the sessions can be sent.

Judge Carrion asked if there are any features in MDEC that non-MDEC jurisdictions can access and take advantage of prior to implementation in their courts. Chief Judge Morrissey explained that because of the all the upfront analyses, assessments, testing, and training required prior to implementation, it is not possible to provide any advance functionality.

There being no further business before the Council, the meeting adjourned at 10:52 a.m. The next meeting is scheduled for May 26, 2021, beginning 9:30 a.m.

Respectfully submitted,

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

Faye Gaskin