

Justice Matters

A publication from the Maryland Judiciary

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Professionalism Commission



photo by Molly Kalifut

Judge Lynne A. Battaglia speaks with a participant at the Calvert County informational session.

Judges Travel Statewide to Meet with Attorneys

Court of Appeals Judge Lynne A. Battaglia and Chief Judge Robert M. Bell have been visiting all corners of the state this fall. Joined by other members of the Maryland Judicial Commission on Professionalism, Judge Battaglia and Judge Bell are meeting personally with attorneys from every jurisdiction. As chair of the commission, Judge Battaglia is leading discussions on the commission's findings and recommendations.

Beginning in September, legal professionals have met with the judges at 20 informational sessions, as the judges traveled from Garrett to Worcester, St. Mary's to Kent, Baltimore to Frederick, and nearly every county in between. The commission will

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Renovated Special Collections Room Opens

Restored Audubon "Birds of America" prints return

By Catherine McGuire, Outreach Services, Maryland State Law Library

Spending \$1,000 in 1833 was equivalent to spending \$23,000 today. So it was no small matter for David Ridgely, the first Maryland State Librarian, to ask the legislature for that amount to become a subscriber to John James Audubon's *Birds of America* elephant folio prints.

Ridgely's effort paid off. The Maryland State Law Library's prints, now nearing completion of a much-needed conservation overhaul, are worth much more than \$23,000. Though a formal

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staff

Mary Brighthaupt, designer

Rita Buettner, editor

Molly Kalifut, writer

Dan Clark, photographer

Jack Fino, photographer

Justice Matters is published quarterly.
We welcome your comments or ideas.
Contact us at:

Court Information Office
361 Rowe Blvd.
Annapolis, MD 21401
Tel: (410)260-1488
cio@mdcourts.gov

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District Court Celebrates 35 Years



photo courtesy of Linda McCabe

by Ken Brown, Coordinator, Customer Information Services,
District Court Headquarters

Maryland Delegate Joan Cadden presents Chief Judge Ben C. Clyburn of the District Court with a citation to commemorate the 35th anniversary of the District Court.

The court celebrated its anniversary with a bull roast with more than 280 employees and friends of the court in attendance.

The District Court began operations under the leadership of Chief Judge Robert F. Sweeney on July 5, 1971.

2007 Legislative Session

Changes Will Streamline Court Processes

by Suzanne Delaney, Esq., Deputy Director, Office of Government Relations

When the legislative session opens January 10, the General Assembly will consider proposals from the Maryland Judiciary including changes to allow for the electronic filing of traffic citations. Issuing e-citations would save time, paper, and staff resources for police agencies and the court, as well as greatly enhance officer safety. In addition, e-citations would provide a more legible and more accurate record of alleged offenses and information to citizens and the court.

The Judiciary's package also includes requests for \$1.6 million for courthouse security enhancements and \$2.6 million for Judicial Information Systems operations.

"Each new proposal is of course important to the Judiciary, but equally important is the opportunity to educate new legislators and members of the administration about the Judiciary in general and our desire to work together to serve the citizens of Maryland," said Prince George's Circuit Administrative Judge William D. Missouri, chair of the Maryland Judicial Conference's Legislative Committee. Judge Missouri also serves as chair of the Maryland Conference of Circuit Judges and chair of the National Conference of State Trial Judges.

The e-citation proposal will clarify that a citation can be computer generated, that it can be filed with the court by electronically transmitting the contents according to procedures specified by the court, and that the signature of the police officer and/or the defendant can be electronically transmitted.

This proposal gives the chief judge of the District Court authority to specify the appropriate means for execution and acknowledgment of a citation, such as a signature on the citation, electronic signature, or data encoded in a driver's license or identity card from the Maryland Motor Vehicle Administration. The proposal also allows the officer, during a traffic stop, to place multiple charges on a single document.

This year's legislative package also includes:

Probation Violation

Legislation is being introduced to eliminate confusion by allowing the circuit courts and District Court to issue a warrant or give notice of a violation of probation in a reasonable time frame rather than during probation. This would be consistent with case law. Similar legislation was introduced in 2006.

Jury Service

A comprehensive bill regarding jury service was introduced and enrolled in the 2006 legislative session. Legislation making additional corrective changes to this bill is included in the Judiciary's legislative package.

Judgeships

One additional circuit court judgeship for Baltimore City and Montgomery County will be requested to help alleviate heavy caseloads in those jurisdictions. Further, one additional District Court judgeship will be requested for Charles County and Montgomery County.

E-recording

Legislation is being introduced to allow the chief judge of the Court of Appeals to establish a pilot project that would allow land records to be recorded electronically.

Expungement

Legislation is sought to allow for the expungement of certain records relating to civil offenses of possession of an alcoholic beverage by an under-age individual. Currently, only criminal offenses for possession in these cases can be expunged.



photo by Rita Buettner

Jurors reached their verdict - friendship

by Marlo Barnhart, Hagerstown Herald-Mail

HAGERSTOWN The verdict came in 20 years ago. The sentence was life—a lifetime of friendship for a group of strangers brought together by jury duty.

A core group of those former jurors has been enjoying “time served” on their sentence, which began in December 1985.

“We started out with a picnic in August 1986 that was going to be once a year,” ex-juror Maryann Miller said. That first event was so enjoyable, the group and their spouses decided to make it twice a month for dinner.

Last Wednesday, three of the former jurors and two of their spouses met at The Colonial restaurant on Pennsylvania Avenue for what now is a monthly dinner engagement.

Miller was there with her husband, Larry, as were jurors Verle Slifer and Dennis Hockensmith and Hockensmith’s wife, Mary. “That first picnic was at Verle’s house,” Hockensmith said.

These three were the only ones able to make the dinner Wednesday, but on other occasions, more of the former jurors often show up, Miller said.

Some of the other jurors included a teacher/counselor and a Mack Trucks worker, both of whom came to a few of the gatherings; an Internal Revenue Service agent; a newspaper employee; a retired postal worker; and a woman named “Sue” who since has moved to North Carolina. A number of other jurors who were invited to join in with the group never did, Hockensmith said.

This association began when 75 registered voters were notified to show up at Washington County Circuit Court for three months of jury duty beginning in December 1985.

“We kept getting on the same cases,” Miller said. Before long, they found they had gotten to know each other quite well.

“I remember I gave Millie Boyer a ride home one night when we were kept until 11 p.m.,” Miller said. After that, she routinely picked up the woman and drove her to jury duty.

Slifer, who was 63 years old and a widow when she was called for jury duty in 1985, said she has treasured the friendships that began so long ago.

Now soon to be 83, Slifer said she never had been on jury duty before, so she was a little mystified by the process. But the friendships she made and kept over the years have been special for her.

Hockensmith said he believes the roots for the enduring friendships first came when a 12-person jury was picked for a civil case that lasted 10 days.

During those 10 days, Hockensmith and those other jurors spent more time with each other than with their own families. In that time, the bond was cemented.

“I remember a workmen’s compensation case where the man had to show us his legs,” Slifer said. “He rolled up his pants legs in court . . . I felt so sorry for him.”

There were other cases that stood out, including a robbery at a local dinner theater and an assault case from one of the state prisons near Hagerstown.

“We also had a paternity case where the woman testified she couldn’t identify the father of her child because it was too dark in the back seat of the car they were in,” Hockensmith said. After her testimony, the jury had no trouble letting that man off the hook, he said with a smile.

Contacted by telephone, Washington County Circuit Judge Frederick C. Wright III said it is rewarding for him to hear such positive feedback from former jurors.

“The stories that usually come from jurors are usually neutral or negative,” Wright said. “These people formed a friendship, developed during times of conflict on a daily basis.”

Some of the other jurors keep in touch by way of Christmas cards or occasional phone calls, but the trio of Miller, Slifer and Hockensmith has been the most loyal.

Before leaving The Colonial just before 9 p.m., they all got their calendars out and decided which restaurant to go to next month.

“We’ll pick up Verle,” Hockensmith said.

Legislators Visit Courts for Judicial Ride-Along

As experienced legislators and their newly elected colleagues prepare for the legislative session, trial courts throughout Maryland are inviting them to learn more about their local courts at Judicial Ride-Along programs. As part of the Judiciary's effort to strengthen understanding and cooperation between the legislative and judicial branches of state government, the circuit courts and District Court invite legislators, local government and business leaders, and members of the media to observe trial courts in action, and join in face-to-face discussions with judges and other justice system personnel.

Ride-Along events are being held throughout the state during November and December:

- Frederick County: Thursday, November 30
- Wicomico County: Friday, December 1
- Anne Arundel County: Monday, December 4
- Prince George's County: Monday, December 4
- Baltimore County: Tuesday December 5
- Dorchester County: Tuesday, December 5 (Circuit Court) and Monday, December 11 (District Court)
- Howard County: Wednesday, December 6
- Washington County: Thursday, December 7
- Calvert County: Monday, December 11
- Baltimore City: Tuesday, December 12
- Allegany County: Thursday, December 14
- Montgomery County: Thursday, December 14



photo by Rita Buettner

For more information, visit
mdcourts.gov/ridealong/.

Education pays off for 11-year employee who will oversee administrative services

Warnken Named to Assistant Chief Clerk

Soon after Bobbie Warnken began working as administrative assistant/human resources associate for the District Court in Anne Arundel County in 1995, she became known by another, less formal moniker. “I remember someone commenting that I was like a sponge,” Warnken said. “And that was true—I wanted to absorb all that I could about the court, and I took every opportunity to learn aspects that were unfamiliar to me.”

That passion for taking on new challenges has resulted in new opportunities, and Warnken will celebrate her 12th anniversary in January in her newest role: assistant chief clerk of administrative services for the District Court of Maryland.

Warnken was selected in September to succeed Diane Pawlowicz in the position after Pawlowicz was hired as executive director of court research and development department in July.

“Bobbie is ideal for this position,” said Chief Judge Ben C. Clyburn of the District Court of Maryland. “She has worked throughout her career to learn as much as she could to prepare for this particular position. Her striving to work up towards goals is admirable.”

Warnken is thrilled to be taking on the new challenge. “I look forward to continuing technological advancements as we pursue e-citations and e-filing,” she said.

Warnken’s career path has been forged through hard work and study. Her first Judiciary job was as administrative assistant for former Chief Judge of the District Court Martha F. Rasin, who was then associate judge for the District Court in Anne Arundel County. Warnken learned all she could about court procedures and systems, and in 2001, she transferred to District

Court Headquarters to join the administrative services department as Pawlowicz’s administrative assistant.

Because Warnken enjoys working with computers, she mentioned to Pawlowicz that she was considering taking community college courses in the subject. Pawlowicz suggested that Warnken aim higher and pursue an associate’s degree. Warnken started working toward her associate’s degree in management in September 2001 and received her degree just a little more than a year later.

“I created my own fast track,” Warnken explained. Her work experience helped her test out of six classes,

and, she said, “I took advantage of online classes, along with taking night and weekend classes.” She helped create the District Court pages of the Judiciary’s Web site and learned bail bond procedures. She was promoted to administrative services specialist in March 2002, taking on duties of creating forms, maintaining the bond system and helping with Web site development.

Warnken applied the same “fast-track” efforts to earning her bachelor’s degree. She started at University of Maryland University College in December 2002 and graduated

in December 2003, majoring in management with a minor in computer science. “My college adviser laughed when I told her I was going to graduate in a year,” Warnken said. “A year later, I e-mailed her to let her know that I did it.”

It was a very busy year. “I took weekend courses, online courses and participated in a course that is designed to give credit for work experience,” Warnken said. At work, Warnken received a promotion to Web site



photo by Molly Kalifut

Bobbie Warnken (right) speaks with Tomiko Thomas, administrative assistant.

Position in District Court

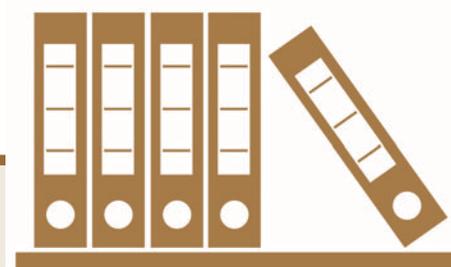
specialist and continued working to create the District Court intranet and Internet sites.

In March 2004, Warnken was promoted again. This time her new role was as coordinator for bonds, forms, grants, and legislation. Still, she said, “I felt as though something was missing.” After taking a few more classes, Warnken decided to pursue a master’s degree in judicial administration. She searched for and found an accredited online program, and enrolled in January 2005 in Norwich University based in Northfield, Vt.

The only easy part of the online course was the commute. From her computer, Warnken composed weekly papers, took exams, and took part in real-time online discussions, group papers, and projects. She graduated from Norwich University this past June at the top of her class with a 4.0 average.

Even as she looks forward to new responsibilities, Warnken hopes that she can encourage others to pursue their goals, just as she was encouraged by many in the District Court.

“I want to give special thanks to my District Court ‘family’ for all their encouragement to learn at work and pursue my education,” Warnken said. “But I would not have been able to complete any of my goals if I did not have the support of my husband and daughters. I thank them more than they’ll ever know.”



At a Glance:

The District Court’s Administrative Services Department

In her position as assistant chief clerk of administrative services, Bobbie Warnken oversees one of the four departments within District Court Headquarters. The administrative services staff produces court forms, brochures, videos, District CourtNet, and the District Court’s pages on the Maryland Judiciary Web site. The department coordinates the District Court’s legislative process, preparing fiscal notes, performing research, tracking bills, and serving as a resource to the Chief Judge of the District Court on legislative initiatives.

In addition to ensuring that District Court forms, fine schedules, and informational publications are up-to-date, the office creates and revises Judiciary forms and disseminates them to all trial courts. The department maintains the bail bondsman system and bond forfeiture system and orchestrates the bi-monthly bond forfeiture collection procedures.

Administrative services works to promote the District Court’s public image, researches innovative services and products to enhance court services for the public, and gives citizens guidance through multi-media approaches, such as court notices, brochures, videos, and the Web site.

The department also ensures access to the courts and court information, including access for people whose first language is not English, and access for people with disabilities. As assistant chief clerk, Warnken serves as a liaison with districts and the statewide Americans with Disabilities Act coordinators in human resources, and Administrative Office of the Courts interpreter certification staff.

Judges/Journalists Workshop

A Judge's Perspective: Overcoming Misperceptions

by Judge Crystal Dixon Mittelstaedt,
District Court for Prince George's County

Judges and journalists from Maryland and the District of Columbia gathered for a one-day workshop on Saturday, October 14, at the Judicial Education and Conference Center in Annapolis. The workshop was sponsored by the Reynolds National Center for Courts and Media.

The relationship between the media and the judiciary is often a contentious one. In a day when fair news reporting of the judiciary is critical to maintaining public trust, it is helpful for judges and journalists to share their concerns. For just as the media often view the courts as deliberately denying the media access to information, so the judiciary at times sees the journalist as only seeking a sensationalistic story.

The Donald W. Reynolds National Center for Courts and Media, recognizing the need for dialogue between the judiciary and the media, sponsored a workshop for judges and journalists of the Maryland/Washington, D.C. area on October 14. The workshop was held at the Maryland Judiciary Education and Conference Center in Annapolis.

The aim of the workshop was to promote better understanding and communication between journalists and judges. Presenters and panelists from both the media and the judiciary tackled such issues as: How can the desires of the journalist be balanced against the needs of the court?

Presenters for the day were Tom Hodson, director of the E.W. Scripps School of Journalism at Ohio University, and former Municipal Court judge and Common Pleas Court judge; the Hon. Phyllis Kotey, retired from the Eighth Judicial Circuit of Florida and now professor at the Florida International University College of Law; and Mark Curriden, a journalist/media attorney who has covered the U.S. Supreme Court. They spoke of the misconceptions judges and journalists often have of each other's role. Journalists sometimes perceive judges as withholding information, while judges may view the efforts of journalist as eroding public confidence in the courts.

A panel addressed the ethical issues faced by both sides. Panelists were Hodson, Baltimore City Circuit Administrative Judge Marcella A. Holland, D.C. Superior Court Judge Lee Satterfield, Ruben Castaneda of *The Washington Post*, and Jayne Miller of WBAL-TV. They considered such questions as: Why is it that judges cannot comment on pending cases? And, is it ethical for journalists to report a judge's inability to comment as "no comment"?

The guest speaker was Lyle W. Denniston, a veteran United States Supreme Court reporter, who is widely respected in the press community. He delivered an inspirational speech stressing the importance of honesty in reporting.

It was an insightful experience! Participants left with a greater appreciation for each other's role.



Judge Crystal Dixon Mittelstaedt

Promotes Greater Understanding

A Journalist's Perspective: Opening a Dialogue

by Eric Hartley, courts reporter for *The Capital* in Annapolis

For the reporters who attended, the Oct. 14 judges and journalists conference was a rare opportunity to get a glimpse behind the bench.

"I thought it was really helpful, just because we so rarely get to be around judges when they're not on the bench in a formal setting," said Suzanne Collins of WJZ-TV.

Zenitha Prince, a reporter for *The Afro American*, said the event gave her a better understanding of why judges can't comment on cases still pending or still being appealed.

"We really don't understand some of the legal ramifications to them in terms of comment on cases," Prince said. "All we see is they're public officials and this is supposed to be public information, so why aren't you being more helpful? . . . It makes me a little more sympathetic."

Parts of the day's discussions focused on whether reporters are too negative. Video clips of gotcha-style television news reports on judges drew laughter.

But Prince said she hopes judges who attended the workshop will come away with different attitudes. Some might think reporters are only out for the bad stories.

"In some cases that may be true, but I would hope that with the caliber of reporters, they would realize, look, this is really about forming a relationship with someone you can trust," Prince said. "Not every reporter is going to sell you out."

If judges want good stories, someone asked at the conference, why not just pick up the phone and call a reporter? Several judges laughed at the idea, with one saying he was too busy and the thought never crossed his mind.

But reporters were glad so many judges showed up—at the very least—to talk and listen. "They seemed very open to getting to know the journalists," said

Cynthia Di Pasquale, a reporter for *The Daily Record*. "There's definitely this wall that seems to be up as far as the access you can get to them."

On her beat, which focuses largely on appellate decisions, she said, "We don't even bother calling judges. We know they're not going to talk to us."

Prince said she thinks the event "opened the channel of dialogue."

One circuit court judge suggested new reporters covering a particular court come to a bench conference and introduce themselves. Di Pasquale said that sounded like a good idea.

Collins said she hadn't been aware of some judges' concerns. For example, some reporters complained about judges not returning phone calls, even over lunch breaks.

But judges explained they have chambers work, scheduling conferences and other things to fit in between time on the bench. And, of course, even judges have to eat.

"That helps us better understand, hey, we're not the only ones eating fast food on our lunch break in the car," Collins said.



photo by Dan Clark

Law Library Special Collections, from 1

appraisal will not be conducted until the restoration and conservation of the set is complete, recent auctions at renowned houses such as Christie's and Sotheby's suggest that the value is in the multimillion dollar range.

Under the energetic guidance of Ridgely, the library vigorously collected materials pertaining not only to the Maryland legislature and laws, but also those relative to the general history of the state and materials considered of importance to the American philosophy, spirit, and national development. Ridgely felt Audubon's proposed work would be of one of great American importance, and of great future value to the State. He was right.

More than 70 years later, library visitors can see the long treasured and newly restored Audubon bird prints in their new home, an expanded and enhanced Special Collections Room. The room's doors were symbolically thrown open September 20 after Chief Judge Robert M. Bell of the Court of Appeals cut the ribbon on a project begun in July 2005.

"These documents belong to the people of Maryland and we have a duty to maintain them," said Steve Anderson, director of the Maryland State Law Library. "We had many volumes in our former Rare Books Room, but while that room helped us set aside and protect our rare works to a limited extent, the space was too small and not designed with preservation in mind. We recognized that in building the Special Collections Room we had a unique opportunity to preserve and protect these unique items for this and future generations."

Historic need

Both the construction of the Library's new Special Collections Room and the restoration of the Audubon prints have been a long time coming. As far back as 1921, some effort was made at preservation of the prints when then-Librarian Mary Garnett McCarty told the Library Committee that display cases should be acquired

for the Audubons. In 1943, retired Library Director Nelson Molter called in experts regarding the failing condition of the prints, only to be told there were no adequate remedies. In 1990, Nancy Rea of the State Archives authored a report on the condition of the prints, and included recommendations for improved storage and display.



A decade later, when a set of Audubon elephant folios sold at auction for more than \$8 million—a shocking number even for those who expected a high sale—Michael Miller, director of the library until 2005, jumped into action. The Conservation Center for Art and Historic Artifacts in Philadelphia was called in to evaluate the library's prints. Senior Conservator Rolf Kat examined the prints and pronounced them in so-so to reasonable condition and in

need of a conservator's care. His recommendations included removing the prints from their bindings, eliminating the 1921 fabric backings, and cleaning and repairing the pages.

Once removed from their bindings and matted properly, the prints would need to be stored flat. From the time of the move into the current Robert C. Murphy Courts of Appeal Building, the library had used a side room to secure its historically and financially valuable materials. That space could not accommodate the needs of the planned Audubon conservation. In addition, that space was neither light- nor humidity-controlled, both essential for the long-term survival of delicate materials. A review of the library's rare items showed that there were a number of items in the collection that needed special housing as well. Therefore, an enlarged and redesigned space was planned, incorporating the environmental needs of all of the library's "special collections."

Visiting the birds

Today the Audubon prints, as well as the other significant publications in the Special Collections Room, serve as a wonderful resource for researchers.

cont. on next page

Members of the public may view the prints and publications during the library's open hours, in accordance with established guidelines regarding access and handling.

The first volume of the *Birds of America*, sent to Philadelphia in 2005, returned more than a year later. Cleaned and restored, the prints are now matted in five layers and stored flat. Two prints rotate weekly to the specially-designed exhibit case in the library's foyer. The case includes treated glass to keep out harmful light; humidity control; and special security measures to help ensure the safety of the prints. Print display is carefully controlled, with no single print displayed for more than one week at a time. Rotating the prints in this fashion, it will take about four years for the full collection of 430 prints to be displayed.

Because of the complicated handling and storage requirements for the prints, the library requests that visitors wishing to see specific prints not on display call ahead of time to schedule an appointment during regular business hours.

Shaped over time

Formally established in 1827, the Maryland State Library was initially intended for the use of and controlled by the legislature. The library was housed in the State Capital building, which also housed various state departments as well as the Courts of Appeals and Chancery. A small collection of law books, collected over previous decades by these offices, was included in the formal library upon its establishment.

As the library grew, those law books became a major focus of the collection. In 1904, due to expansion needs of the Maryland House and Senate quarters in



the State Capital, the library moved into the new Court of Appeals Building. And in 1916, the Department of Legislative Reference, created in 1906 for Baltimore City, was enlarged to cover research for the General Assembly as well as other state agencies.

Thus, the demands on the State Library became focused on the needs of the Court rather than the legislature. The name was changed formally to the Maryland State Law Library during the 1970s to reflect a path that had been established much earlier.

For more information about the Special Collections Room, visit:

mdcourts.gov/lawlib/Special%20Collections.htm.



photo by Dan Clark

Chief Judge Robert M. Bell of the Court of Appeals cuts the ribbon to the Special Collection Room as he stands beside Library Director Steve Anderson (left to right); Rolf Kat of the Conservation Center for Art and Historic Artifacts; Court of Appeals Judge Clayton Greene, Jr.; Luis Pitarque of HDR; State Court Administrator Frank Broccolina; Court of Appeals Clerk of Court Alexander L. Cummings; and Winston Yee of HDR. Judge Bell serves as chair to the Library Committee, and Judge Greene, Broccolina, and Cummings are members.

Law Changes Procedures after Finding Defendant Incompetent



by Judge George M. Lipman, District Court for Baltimore City

Among the changes as a result the 2006 Legislative Session was legislation to change procedures after finding a defendant incompetent to stand trial. Included in Chapter 353 is periodic review of a defendant's status, a procedure for converting a defendant's status from a criminal commitment to a general civil commitment when it is unlikely that the defendant will regain competency, and provisions for the dismissal of charges for defendants who remain unable to assist in their defense. An incompetent defendant who is on pretrial release may be hospitalized if that defendant becomes dangerous. Supplemental Health Department reports containing detailed aftercare plans are required to minimize a return to dangerousness or incompetence.

Periodic review

A mandated hearing to determine whether an incompetent defendant continues to meet the criteria for commitment shall be held every year from the date of commitment. Also, a hearing shall be held when the parties or the department present changed circumstances.

The end point of an incompetent defendant's "criminal" commitment: general civil commitment or pretrial release with conditions.

Chapter 353 maintains the requirement of an incompetent defendant's present dangerousness as a predicate to that defendant's criminal commitment by the trial court to a mental hospital or Developmental Disabilities Administration facility. However, the revisions define the duration of this criminal commitment as:

1. the attainment of competency to stand trial,
2. present lack of dangerousness, or
3. the absence of a substantial likelihood that the defendant will become competent to stand trial in the foreseeable future.

The criminal trial may proceed if the defendant has regained competency. However, detailed are procedures:

1. for a defendant who remains incompetent but is released under pretrial release conditions *or*
2. the general civil commitment of a dangerous incompetent defendant who is not likely to regain competency.

When there is not a substantial likelihood that the defendant will become competent in the foreseeable future, the defendant may be civilly committed if the State proves by clear and convincing evidence that the defendant meets the criteria for general civil commitment. A judicial determination as to a mentally ill and permanently incompetent defendant's need for commitment is to be made by standards identical to those for the civil commitment of mentally disordered individuals who are not charged with a crime. Dangerous defendants suffering from mental retardation who are not likely to become competent in the foreseeable future are to be confined for up to 21 days for the initiation of Developmental Disabilities Administration admission procedures.

Mandatory review hearings are required yearly for incompetent but not dangerous defendants released on recognizance or bail. If the released defendant becomes dangerous and is not likely to regain competency in the foreseeable future, the general civil commitment provisions apply for judicially initiated general civil commitment.

Health Department reporting requirements: service plan required

The State Department of Health and Mental Hygiene is required to report regarding the status of a defendant

found to be incompetent to stand trial every six months and whenever the department determines that the defendant is no longer incompetent, no longer dangerous or there is not a substantial likelihood that the defendant will become competent to stand trial in the foreseeable future.

A supplemental report is mandated that provides a plan for services to facilitate the defendant remaining competent or not dangerous “if services are necessary to maintain the defendant safely in the community, to maintain competence or to restore competence.” If appropriate, the plan shall include: mental health treatment including providers of care; vocational, rehabilitative or support services; housing; case management services; alcohol or substance abuse treatment; and other clinical services.

If the report recommends community placement, the inclusion of the location and date of the recommended placement and service provider specifics are required. The new statute also contains provisions that protect the defendant from improper use of potentially incriminating statements made by the defendant during competency examinations and discussions needed for aftercare planning.

Dismissal of charges

The court shall dismiss charges against a defendant who remains incompetent “whether or not the defendant is confined and unless the state petitions the court for extraordinary cause to extend the time.” The time for dismissal of a capital offense is after the expiration of 10 years. It is the lesser of five years or the maximum sentence for crimes of violence under criminal law §14-101 and felonies. Charges shall be dismissed after the expiration of three years or the maximum sentence for other than capital offenses, crimes of violence or felonies. A further catchall is added which allows a court to dismiss charges without prejudice if the court “considers that resuming the criminal proceeding would be unjust because so much time has passed since the defendant was found incompetent to stand trial.”

For more information about the changes to the adult competency statute, visit:

mdcourts.gov/reference/healthgen.html.



News from the Bench

Appointments

- **Hon. Charles Gerald Bernstein** was appointed to the Circuit Court for Baltimore City, filling a vacancy created by the retirement of Hon. Joseph H.H. Kaplan.
- **Hon. Mary Elizabeth McCormick** was appointed to the Circuit Court for Montgomery County, filling a vacancy created by the retirement of Hon. James L. Ryan.
- **Hon. James B. Sarsfield** was appointed to the District Court for Montgomery County, filling a vacancy created by the elevation of Hon. Mary Elizabeth McCormick.

Retirements

- **Hon. Joseph H.H. Kaplan**, Circuit Court for Baltimore City
- **Hon. Clifton J. Gordy, Jr.**, Circuit Court for Baltimore City
- **Hon. Joseph P. McCurdy, Jr.**, Circuit Court for Baltimore City
- **Hon. James L. Ryan**, Circuit Court for Montgomery County

In Memoriam

Hon. G.R. Hovey Johnson, Prince George's Circuit judge from 1982 to 2000.

Recreating History

Chief Judge Robert M. Bell of the Court of Appeals participated on August 17 in a courtroom drama re-enactment to honor West Virginia's first African-American attorney. Judge Bell appeared in two performances of "J. R. Clifford and the Carrie Williams Case," which is based on the landmark 1898 West Virginia civil rights case, *Williams v. Board of Education*.

Williams and Clifford filed the case after school officials shortened the term at her one-room "colored school," at the head of the Blackwater Canyon, from eight months to five months. Williams continued teaching for the full school term, and then sued the school board for her unpaid salary.

The Tucker County Circuit Court and the West Virginia Supreme Court ruled in Williams' favor, making hers the first case in U.S. history to hold against racial discrimination in school terms. The program was part of the National Park Service's celebration of the Centennial of the Niagara Movement meeting in Harpers Ferry, the birth of the modern civil rights movement.



photos courtesy of Tomas Vernon

Congratulations to:

- **Court of Appeals Judge Alan M. Wilner**, who received the Maryland Bar Foundation's 14th Annual Professional Legal Excellence Award in the category of Advancement of Professional Competence.
- **Baltimore City Circuit Judge Stuart R. Berger, Baltimore City District Judge Joan Bossman Gordon, Baltimore City Circuit Judge Wanda Keyes Heard, and Montgomery County Circuit Judge Nelson W. Rupp, Jr.**, who were named Leadership in Law winners by *The Daily Record*.
- **Montgomery County Circuit Judge Marielsa A. Bernard**, who was recognized as one of 2006's Women of Achievement by the Montgomery County Business and Professional Women and the Montgomery County Commission for Women.
- **Retired Baltimore County Circuit Judge J. Norris Byrnes**, who was named this year's "Man for All Seasons" by the Saint Thomas More Society of Maryland.
- **Anne Arundel District Judge Danielle M. Mosley**, who received a Fannie Lou Hamer award October 25 from the Dr. Martin Luther King Jr. Committee in Annapolis.
- **Frederick County District Judge W. Milnor Roberts**, who was honored on October 27 at the Frederick County Sheriff's Office's annual awards banquet.
- **Howard County Circuit Judge Dennis M. Sweeney and Retired Baltimore City District Judge Mary Ellen T. Rinehart** who were recognized as a Champion of Justice by the Legal Aid Bureau at the 95th Anniversary Homecoming Gala on October 14.

Professionalism, from 1

consider the feedback from these conversations as it compiles its final recommendations about how to move forward to address concerns about professionalism.

“I’ve enjoyed these town meetings to continue the discussion about professionalism, not just internally—how we deal with each other—but also how we are perceived by the public,” Judge Battaglia told a group of approximately 40 attorneys who came to the Calvert County Courthouse in September to meet with members of the commission. “We need to continue to examine the problem and pursue solutions.”

“Isn’t this more of a ‘big firm’ problem?” one Calvert County attorney asked the judge.

“While there may be different ways to address issues, we have found that problems involving professionalism are not just in Baltimore or the big firms,” Judge Battaglia replied. “When we have gone out in the field, we found there are issues to address statewide, even in the small jurisdictions.”

The 36-member commission, which evolved from a task force established in 2002 by Judge Bell, presented its report to the Court of Appeals on May 31 after considering the issue of professionalism in light of concerns that public perceptions of lawyers and the practice of law have declined.

Professionalism is important because public perception is important, Judge Bell said. “The Judiciary has no power beyond the trust and confidence of the people, so how we are perceived is *very* important,” Judge Bell told the Calvert County attorneys. “The foundation stone of our society is the rule of law. Our job is to see that it continues. If people do not trust us, we are not going to have a viable system. That’s why it’s so important.”

When the Court of Appeals created the commission in February of 2004, the group was charged with

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finding ways to support and encourage members of the Judiciary to exhibit the highest levels of professionalism; support and encourage lawyers to exercise the highest levels of professional integrity in their relationships with their clients, other lawyers, the courts, and the public; and to fulfill lawyer obligations to improve the law and the legal system.

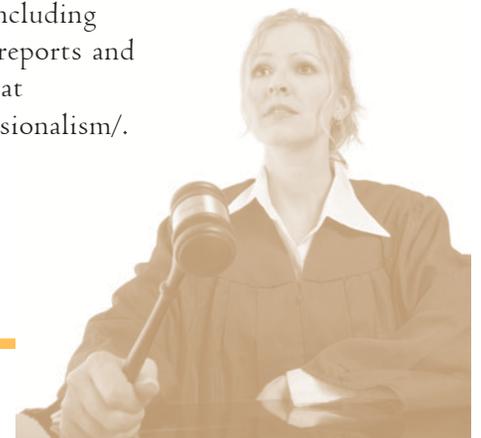
After presenting the report to the Court of Appeals, Judge Battaglia invited Judge Bell to join her in public visits with attorneys throughout the state.

“I want to say that what Judge Battaglia is doing is above and beyond the call of duty,” Judge Bell said during the Calvert County meeting. “These folks [members of the commission] have been working day-in and day-out on these issues.”

As Judge Battaglia and Judge Bell meet with attorneys, they discuss the report’s recommendations for adoption by the Court of Appeals, which include instituting greater sanctions for unprofessional conduct, counseling for errant attorneys, and a judicial mentoring program for law students.

“We’re trying to make this process as transparent as possible,” Judge Battaglia said.

The full report, including appendices, interim reports and minutes, is available at mdcourts.gov/professionalism/.



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Robert C. Murphy Courts of Appeal Building
361 Rowe Blvd.
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The Birds Return to
Maryland State Law
Library, see page 1.

John James Audubon's *Birds of America*