

Justice Matters

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Report Released on Racial and Ethnic Fairness in the Judicial Process

On June 15, Court of Appeals Judge Dale R. Cathell presented to his colleagues a report on Racial and Ethnic Fairness in the Judicial Process. The report was compiled by a Commission created by Court of Appeals Chief Judge Robert M. Bell in 2002 to survey litigants to determine their experiences and the perception of the public at large regarding racial and/or ethnic bias in the courts.

“The Commission was asked to undertake a critical examination of court-related equality issues from the perspectives of court users and minority and ethnic communities,” said Judge Cathell, who chaired the Commission. “Most of the findings were anticipated, with a few exceptions.”

The 20-member Commission, comprised of judges, lawyers, court clerks, court officials and lay persons, conducted a three-phase study. The first phase involved a questionnaire aimed at identifying the experiences of actual court users—primarily litigants—as it related to racial, ethnic and economic fairness. The Commission mailed nearly 10,000 questionnaires to litigants who had cases in the trial courts. During the second phase, the Commission held five public hearings statewide to afford citizens the



Judge Dale Cathell
photo by Dan Clark

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Meredith Joins the Court of Special Appeals

Timothy E. Meredith was appointed by Governor Robert Ehrlich in July to the fifth appellate circuit for the Court of Special Appeals. Meredith, a graduate from Western Maryland College who earned his J.D. from Duke University School of Law, fills the seat vacated by Judge Clayton Greene, Jr. who was elevated earlier this year to the Court of Appeals.

“Judge Meredith has proven himself to be an outstanding trial lawyer and an outstanding appellate lawyer,” said Joseph F. Murphy, Jr., Chief Judge of the Court of Special Appeals. “The judges of this court are familiar with his excellent legal work, and the opinions he files are sure to match the high quality briefs he has filed on behalf of his clients.”

Meredith, 53, is an attorney in private practice and also a trained mediator. He was admitted to the Maryland Bar in 1979 after serving as a law clerk for former Court of Appeals Judge Marvin H. Smith from 1977-78. “[Judge Smith’s] very strong work ethic, as well as his common sense, are characteristics I hope to emulate,” he said.



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News You Can Use

Drug Treatment Commitment Procedures Enacted

by Judge George Lipman, Baltimore City District Court

Earlier this year, the General Assembly revised Health-General §8-507 commitments through the passage of Administration-sponsored companion bills SB 194 and HB 295, which became Chapters 237 and 238. The bills not only rewrote §8-507 and its accompanying evaluation provisions, §§ 8-505 and 506, but also codified and restructured the Local Drug and Alcohol Councils through which a county or Baltimore City develops its local plan for allocation of state and federal drug treatment dollars to providers. Additionally, the legislation includes provisions regarding probation before judgment, revocation of probation, stet, nolle prosequi and parole eligibility.

Health – General §8-507 Commitments

As revised, §8-507 continues to allow a trial court to commit a defendant to the Department of Health and Mental Hygiene (DHMH) for voluntary addiction treatment. While language in early versions of the bills may have blurred the state's overall responsibility, the final enactment retains the fundamental concept of commitment and charges DHMH to provide required services and facilitate prompt treatment of a defendant.

Note that the state's Alcohol and Drug Abuse Administration (ADAA) does not manage treatment facilities, provide security, employ officials similar to probation agents, or maintain its own transportation unit. Thus, while it remains ultimately responsible, the enactment allows for maximum utilization of local entities, private providers and other agencies for transportation, evaluation, treatment and supervision.

While funding increases accompanied passage of this legislation, currently there is an inadequate supply of residential or halfway house beds. Nonetheless, the bill requires DHMH through its designated evaluators to identify a specific program to provide the recommended treatment and give an actual or estimated date when the program can begin. Many sentencing judges hesitate to initiate a §8-507 commitment due to unworkable delays in securing an appropriate treatment bed. Treatment availability may increase as a result of the activity surrounding the passage of this legislation. At a minimum, the requirement to identify placements and concretely gauge the time of availability should further realistic expectations at sentencing.

A corresponding requirement is placed upon the sentencing court only to commit to departmentally approved, identified and available placements. Section 8-507 does not contemplate adversarial proceedings at the conclusion of which the court chooses between treatment proposals. The court only may accept or reject departmentally established placements voluntarily agreed to by the defendant.

Without an ADAA transportation unit, courts in some jurisdictions have experienced chronic difficulties transporting defendants to and from residential programs. Law enforcement response has also been problematic at times when committed persons run away. New language clarifies that receipt of a notice of escape from a treatment center is probable cause for issuance of an arrest warrant, and gives the trial court numerous entities that may be ordered to transport a defendant for evaluation and treatment.

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Fairness Report Released, cont. from p. 1

opportunity to address their concerns about racial and/or ethnic fairness in the courts directly to Commission members. For the third phase, Commission members invited anyone who alleged to have experienced racial or ethnic bias in the Maryland court system to provide written testimony.

Report Findings

Overall, the report documented that most citizens of Maryland viewed the court system as fair, and that judges, lawyers and court personnel were respectful of litigants and witnesses regardless of their race, ethnicity or economic status. While many citizens on the whole believed that the judiciary's process of administering justice was fair and unbiased, the degree of fairness received during the process was called into question by minorities and the less affluent. According to the report, over 40 percent of the minorities surveyed believed that whites received better treatment in family courts than minorities. Minorities and those reporting low-income levels also tended to believe that the race of a victim affected the outcome of a criminal court proceeding.

“What we found was that minorities, mainly African-Americans, and the less affluent shared the same concerns and echoed the same issues,” said Judge Cathell. “What this tells us is that the perception of bias or unfairness in the courts goes beyond race and ethnicity, and includes a persons' level of income as well.”

The report also showed that nearly 60 percent of the respondents believed that police departments, state's attorney's offices and public defender's offices were part of the judicial system. Consequently, perceptions of fairness in the courts are, at least in part, a result of entities that the courts have little or no control over, according to the report. As an example, more than a fourth of all respondents—and around 40 percent of minorities—said they thought their treatment by police departments was unfair. Other interesting findings from the report:

- Over 40 percent of respondents said they did not believe that a fair hearing could be had in the courts unless an attorney represented them.
- Four out of 10 respondents said they could not afford to hire an attorney.
- The majority of respondents believed that judges and masters involved in their cases were courteous and respectful.

- Slightly over 10 percent of survey respondents indicated that their case at some point in time was referred to mediation.

Recommendations

The Commission issued in its report 19 general recommendations for improving the perception of racial, ethnic and economic fairness in the judicial system. The main recommendation was to establish a formal discrimination complaint procedure for court users. Other recommendations included informing and educating the public that certain departments such as the police, prosecutors and defense attorneys are not primarily controlled by the courts; developing and holding public workshops to explain and discuss court procedures, services and programs; hiring and retaining multilingual employees in the courts; simplifying and streamlining the Rules of Evidence and Procedure in an effort to make the judicial process more accessible for *pro se* litigants; and requiring new members of the bar to participate in at least one training session on racial, ethnic and economic fairness.

“I think what our recommendations say is that we all have a role to play in making sure that our legal system operates without bias of any kind,” said Judge Cathell, “and that the public perception is one of the court system dispensing justice fairly and equitably.”

A copy of the report is available online at:
www.courts.state.md.us/publications/raciaethnicfairness04.pdf



Commission Chair Judge Cathell (front, right), along with Vice-Chair Federal Judge Charles Day (front, left), presents the report to his colleagues on the Court of Appeals.

photo by Dan Clark

District Court Recognizes ADR Volunteers



Jerry Rainville (left) receives award from District Court Chief Judge James Vaughan.

photo by Van Clark

The District Court of Maryland's Alternative Dispute Resolution (ADR) office has experienced tremendous growth and success during 2003 and the first half of 2004. District Court ADR programs are currently assisting litigants in 16 counties across the state and in Baltimore City. The settlement rate from cases referred by the District Court to these ADR programs is approximately 66 percent.

The current success enjoyed by the District Court's ADR programs is directly attributable to its skilled and dedicated pool of volunteers. The District Court benefits from the services of 298 ADR volunteers from across the state. In 2003, these volunteers donated over 4,400 hours to ADR programs, and that number is expected to increase by the end of 2004.

The ADR office is indebted to its volunteers for their hard work and devotion to assisting Maryland citizens with their legal disputes, and as a token of its appreciation, the office recently hosted an ADR Volunteer Recognition event. Volunteers statewide gathered in Ellicott City to receive recognition for the valuable services they provide to the District Court. One of the highlights of the event was to honor Jerry Rainville, an ADR volunteer in Anne Arundel County. Rainville, who has served as an ADR program volunteer for the past four years, was awarded the distinction of "2003 Volunteer of the Year" for his outstanding contributions to the District Court ADR program.

Maryland Appellate Briefs Now on Westlaw

West Group (Thomson-West), the purveyor of Westlaw and publisher of millions of appellate court opinions and other sources of legal authority, has a new product in tow on their online Westlaw service - Maryland appellate briefs.

A little over two months ago, a subsidiary of West Group, West Court Records Services from Philadelphia, Pa., began collecting and scanning prospectively copies of every appellate brief filed with the state's two appellate courts. The end product is a new electronic resource formerly only available in print or microfilm/fiche from larger law libraries around the state. Initially, plans are to create a retrospective file of these valuable appellate case documents back to 1997. This new database content is now accessible to all Judiciary Westlaw users as of July 1, 2004. For more details, contact Mike Miller at the State Law Library at mike.miller@courts.state.md.us.

Courthouse Treasures: Montgomery County District Courthouse

by Ken Brown



If you ever have the chance to visit the old Montgomery County Circuit Courthouse, now District Court #6, take a moment to admire the architectural style of the facility. If you agree that the 16 steps leading to six Ionic columns give the courthouse a truly classic look, then you are not alone. In 1931, the courthouse was constructed to replace the 1890 red brick courthouse that was equipped with a single courtroom on the third floor and a jail on the fourth floor. The new courthouse not only provided additional courtrooms and space for court-related agencies, but the structure itself was impressive in its stature. The same year it was constructed, the Washington Board of Trade gave the County Commissioners of Montgomery County and the building's design firm, Smith & Edward, a Diploma of Merit for the building's "superior design."



In the years that followed, the courthouse hosted many tenants (the District Court of Maryland took residence in 1986 after the circuit court moved out) and underwent many changes, including several renovations and additions, that altered the look of the original building. The strength of the design, however, remains in the short walk up the imposing steps into the halls of justice. Karen Smith, a longtime law librarian for the circuit court, preserved the Diploma of Merit, which currently hangs—with a few water stains—in the office of Jeff Ward, the administrative clerk for the District Court in Montgomery County.

Teaching the Vermont Judiciary to FISH!

In early May, Nancy Kline (pictured above) and Anne-Marie Baikauskas (pictured below) from the professional development/educational assistance unit of the Human Resources Department were presenters at the Vermont Judiciary's annual "Court Managers' College." The presentation they gave was on "FISH!", a motivational workshop designed to create a more productive, energetic, playful and positive work environment.

"FISH!" has been offered to all non-judicial staff of the Maryland Judiciary since 2001, and it takes its inspiration from a famous fish market in Seattle, Wash. The four concepts of the "FISH!" philosophy are: "Choose Your Attitude," "Be There," "Play," and "Make Their Day." Conference attendees, including court officials from New Jersey, Arizona and the U.S. Court of Appeals, observed an ocean of possibilities for their courts to reel in the "FISH!" philosophy. Many benefits of the program bubbled up, such as improved morale, increased internal and external customer satisfaction, lower absenteeism and lower stress levels. Many attendees bought into the workshop hook, line and sinker.



photos by Linda Richard

Mental Health Programs

by Judge Charlotte Cooksey, Baltimore City District Court
Judge Mimi Cooper, Harford County District Court

“Previously, these cases were scattered among nine different criminal courts and multiple judges, prosecutors and defense attorneys... Consolidating these cases onto a single docket allows for case processing by a dedicated team of individuals, trained in mental health law, who follow each case throughout the process.”

Judge Cooksey

Increasingly, large numbers of mentally ill people are entering the criminal justice system each year—a trend that poses a growing social problem that burdens both the criminal justice system and the public mental health system. It is estimated that 16 percent of the incarcerated population suffers from a serious mental illness, and at least 75 percent of them also have a substance abuse problem. The traditional approach to processing criminal cases often creates a barrier that prevents the court from identifying and responding to the unique needs of the mentally ill offender.

“These offenders frequently spend unnecessary time in jail, and lacking access to mental health treatment services on release, tend to be re-arrested and recycled through the system,” said Baltimore City District Court Judge Charlotte M. Cooksey. “The needs of the community are not addressed, the costs to the taxpayer escalates, and the defendant continues to have the same problems and associated risks.”

Baltimore City’s Pilot Program

In Baltimore City, where the mentally ill offender population is large and the problems are extreme, a partnership was formed in 2002 to create a Mental Health Court pilot program. The goal of the program is to improve outcomes for this special population, while increasing public safety. The program began with the consolidation of all cases in which a competency evaluation was ordered—approximately 250 each year.

“Previously, these cases were scattered among nine different criminal courts and multiple judges, prosecutors and defense attorneys,” said Judge Cooksey, who heads the program. “Consolidating these cases onto a single docket allows for case processing by a dedicated team of individuals, trained in mental health law, who follow each case throughout the process.”

As partners, the Office of the Public Defender and the Office of the State’s Attorney provide resources to the court, and the Division of Parole and Probation and the Division of Pretrial Detention and Services each dedicate an agent to the project. A key role in the project is played by FAST (Forensic Alternative Services Team) staff, master’s-level clinicians who assist with the identification, assessment, planning, and in some cases, monitoring of the defendants. Police departments from Baltimore City and Baltimore County also participate in the effort by agreeing to expedite the execution of any warrants that are issued.

In order to enroll in the program, the defendant must be a Baltimore City resident who is eligible for public mental health services. There must be a diagnosis of an Axis I serious mental illness and/or a trauma related disorder. The charge may not be a domestic violence related offense, and the defendant may not have any prior convictions of a crime of violence. Defendants may be referred to the program from a variety of sources. Defendants who remain in custody are often referred by court commissioners, Pretrial Detention and Services investigators or jail medical staff. Police, attorneys, family members, advocacy groups, clinicians and probation officers are also potential referral sources, in addition to District Court judges.

cont. on next page

With the exception of competency cases, if a defendant does not meet the criteria, the mental health program may decline to accept the case. Participation in the program is voluntary, but in order to be accepted, the defendant must agree to waive the right to a trial and enter into a diversion or plea agreement with an emphasis on community based treatment. If the defendant initially asks to participate and later wants to “opt out,” the case is then handled as a regular criminal case.

Harford County’s MHDP

In Harford County, a Mental Health Diversion Program (MHDP) has emerged from its planning stages in 2002 into a functioning entity in early 2004. Spearheaded by District Court Judge Mimi Cooper, the program strives to reduce the recidivism rate of offenders who commit street crimes due to mental illness and substance abuse.

“By stopping the revolving door that causes mentally ill people to spin in and out of the criminal justice system, MHDP diverts the defendant from the criminal justice system into a treatment program, replete with evaluations, medications and a network of community supports to help the defendant lead a sustainable life,” said Judge Cooper. “The success of the defendants’ treatments, we hope, will be reflected by the improved public safety, well-being of the defendants, access to public mental health treatment services and faster case processing time.”

The rehabilitative and voluntary nature of the program stands in stark contrast to the traditional method of processing cases. In MHDP, the judge, prosecutor, public

defender/private attorney, probation officer and treatment provider work as a team to encourage the defendant’s success in the program. Prior to the start of the first hearing, the team reviews the information gathered about the candidate, and at the mental health diversion bail review, works with the judge to decide whether the candidate is eligible for the program. Eligibility is limited to those arrested for nonviolent crimes.

If the judge agrees with the recommendation, the defendant is released under the supervision of a mental health professional. If the defendant agrees to the terms of his/her release, the defendant’s charges are placed on the stet docket. For those who comply with the plan, the MHDP team monitors the defendant’s progress on a monthly basis until the one-year mark, whereupon the defendant graduates from the program.

There has been a proliferation of mental health programs throughout the country in recent years, and the numbers continue to grow. At this time, there isn’t enough evidence to determine whether mental health court programs such as the ones implemented in Baltimore City and Harford County are truly succeeding in preventing recidivism, or the treatment plans are successful in helping the mentally ill offender stabilize. However, these courts join the popular drug treatment courts in representing a philosophical change from the traditional orientation of the judicial system to a hands-on “therapeutic” approach which offers much needed alternatives to incarceration.

Congratulations to...

Retired **Judge Ellen M. Heller**, who received the Anselm Sodaro Award at the Maryland State Bar Association Annual Conference in Ocean City, Md. The award, given here by Bob Krenshaw, MSBA member, is presented annually to a Maryland jurist who has exhibited excellence in judicial temperament and civility. The award is named after the late Judge Sodaro, who served on the Baltimore City Supreme Court (now the circuit court) bench for 30 years, and was well regarded for his civility and courtesy to everyone who stepped into his courtroom. Previous winners were **Judge Daniel M. Long**, **Judge Albert J. Matricciani, Jr.**, **Judge Robert Mason**, **Judge Maurice Brown**, **Judge Ann S. Harrington** and **Judge Raymond J. Kane, Jr.**



photo by Janet Eveleth

Drug Treatment Courts, Expansion Projects Underway

Under the direction of Circuit Court Judge Brett Wilson and Drug Court Coordinator Mark Masden, the Dorchester County Juvenile Drug Court became operational in June.

The Frederick County Juvenile Drug Court Team recently completed Federal Drug Court Training. Under the direction of Circuit Court Judge Julie S. Solt, the team intends to have a juvenile drug court program up and running later this year.

Under the direction of Circuit Court Judge Melanie M. Shaw Geter, the Prince George's County Juvenile Drug Court became operational in May.

Montgomery County Juvenile and Adult Drug Court Teams are completing Federal Drug Court Training and plan to have operational programs later this year.

Under the direction of Master Theodore Hart, Harford County began operating the first Family Dependency Drug Court in the state in May.

On the Eastern Shore, Somerset, Wicomico and Worcester counties, through the judicial leadership of Circuit Administrative Judge Daniel M. Long, have confirmed their commitment to prepare pilot drug court programs during 2004-05.

Under the direction of Circuit Court Judge Karen A. Murphy Jensen, the Caroline County Juvenile Drug Court Program became operational in July. The Caroline Counseling Center recently completed Multi Dimensional Family Therapy training specifically for drug court. The county will also be the site for the first partnership between the University of Maryland's Cooperative Extension Service Program (4-H) and a drug court in the state.

Under the direction of District Court Judge Louis A Becker III and Drug Court Coordinator Bobbie Fine, the Howard County Adult Drug Court became operational in June. Howard County will also be the site for the first DUI Court effort in the state.

A Visit from the Czar

On June 18, John P. Walters, Director of the Office of National Drug Control Policy (ONDCP) visited the Baltimore City District Courthouse on Wabash Avenue to discuss the drug problem in Baltimore. Walters, also known as President Bush's "Drug Czar", met with Administrative Judge Keith E. Mathews, Judge Jamey H. Weitzman, Judge George Lipman, Administrative Clerk Lonnie Ferguson and Drug Treatment Court Coordinator Clif Burton, who provided

background on the City's 10-year-old Drug Treatment Court program—the first such program in the state. Director Walters also observed the Drug Treatment Court in action, and earlier toured the Gaudenzia drug treatment center in Baltimore. The Czar's visit to Baltimore City was part of the White House's "25-Cities Initiative" aimed at reducing substance abuse in America's largest cities.



Judge Jamey Weitzman (above) greets Mr. Walters while Clif Burton (center) looks on. Left: Mr. Walters meets with Daniel Brady, a recent graduate of the Baltimore City Drug Treatment Court Program.

photos by Ron White

Eliminating the Paper Trail

Every day across Maryland, thousands of papers are filed with the courts. Court forms, pleadings, motions and countless other documents are reviewed and stored in a clerk's office, a judge's chambers or a vacant area in the courthouse. Consequently, courthouses are running out of space and administrators are seeking repositories for their excess papers. One alternative that is gaining in popularity and growing in technology is electronic filing.

E-filing is the act of distributing paperwork from one computer to another via the Internet. These documents can be retrieved at any time, and with emerging technology, can be protected from outside sources. Less paper filing means more time for judges, clerks and court personnel to address court matters. Court users also benefit from the convenience of filing at any time from a computer with Internet access.

"We love our e-filing system because, like any other court, you begin drowning in paper work," said Sheila Wintermantel, chief deputy for the U.S. Bankruptcy Court for the District of Delaware. "Court users and attorneys are extremely pleased with the system because it makes the court, case information and pleadings available at any time."

In 2002, the Federal Judiciary announced the requirement of electronic filing for documents filed in federal bankruptcy courts. Several courts, including the U.S. Bankruptcy Court for the District of Delaware, were successfully accepting electronic documents prior to the mandate. The program used by the Delaware Bankruptcy Court was developed by the Administrative Office of the U.S. Courts (AOUSC).

Rather than attempt to install a uniform e-filing system for all Bankruptcy courts, AOUSC built in the flexibility needed to allow courts to tailor the program to meet the needs of the individual court unit. The Delaware Bankruptcy Court's e-filing system, for example, offers multi-filing capability for attorneys and includes a docket dictionary and a modification request database for users to make requests to enhance the program. The Delaware Bankruptcy Court's staff provided practical on-site training not only to judges, clerks and court employees, but also to area law firms.

"They really appreciated the time taken to go to their office and train the attorneys and their IT people in their

own environment," she said. "The training made it easier for both the attorneys and the court users to become acquainted with e-filing."

Baltimore City's Asbestos Docket

Over the latter part of the last century, the Maryland Judiciary became flooded with asbestos litigation. These cases were paper intensive, and judges' chambers and clerks' offices turned into warehouses for asbestos filings and pleadings. In response to the great paper chase, the courts piloted an e-filing program in Baltimore City Circuit Court. The pilot also offered other jurisdictions the opportunity to forward their asbestos cases to Baltimore City.

Judge Richard T. Rombro, who currently oversees the asbestos docket, recalled a few obstacles during the early stages of the pilot.

"One problem from the judges point of view was that it was very unwieldy to sign orders, whereas with a paper document you can look at it and decide immediately if the order was moot, should be signed, a hearing should be set, etc," he said. "With e-filing, signing the document could take five minutes, which is very time consuming when you consider the volume we were dealing with."

Another issue was the high cost to the court user, he said. Asbestos litigation attorneys supported e-filing because it enabled them to file

papers from just about any location at any time. However, the original fee per page structure could cost an attorney who was filing multiple documents hundreds of dollars.

"The price has come down dramatically, mainly due to new technologies that make the program more affordable," said Judge Rombro. "We're still in the early stages of electronic filing, and as vendors get more experienced and the technologies improve, the system becomes inexpensive and easier to use."

Since its inception, the program has yielded more than 100,000 documents filed online, resulting in close to two million papers served electronically between parties. Judge Rombro noted that, with anywhere from 50-100 asbestos cases being scheduled every month, the volume has remained steady. Therefore, e-filing has become a jewel

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E-FILING ASBESTOS DOCKET		
BALTIMORE CITY CIRCUIT COURT		
	Jan-June '04	Avg. per month
Cases Added	735	123
Transactions	12,351	2,059
Documents Filed	21,891	3,649
Documents Served	588,457	98,076
Pages Filed	145,743	24,291
Pages Served	3,999,475	666,579
Court Fees	\$186,305	\$31,051
# of Users Filing	5,403	901

Source: Lexis-Nexis

Drug Treatment, cont. from p. 2

Dual Commitment

Under revised §8-507, “dual” commitments to DHMH and the Division of Corrections (DOC) are no longer permitted. Section 8-507 commitment provisions only apply “to defendants for whom (1) no sentence of incarceration is currently in effect and (2) no detainer is currently lodged.” In the past, some inmates were committed to treatment while their DOC sentence remained in effect. Pursuant to the new enactment, a DOC inmate pending sentence modification may properly remain under DOC supervision while undergoing §8-506 inpatient evaluation. However, if the commitment is ordered after the sentencing modification is complete, the only viable supervision mechanism is through probation.

With the elimination of the possibility of this “dual” commitment for treatment occurring at the same time that the inmate is serving a sentence of incarceration, the use of §8-507 in the sentence modification context may decrease somewhat in favor of the use of §8-507 commitments prior to the conclusion of the initial sentencing proceeding. The revision allows for pretrial detainees to be in the custody of a local correctional facility and simultaneously committed to and supervised by the department. A judge is not precluded from holding the initial sentencing *sub curia* pending the defendant’s successful completion of a treatment program to which the defendant has been committed.

Further, regarding sentencing modifications, new language allows for §8-507 commitments “even if the defendant did not timely file a motion for reconsideration under Maryland Rule 4-345 or the defendant filed a motion for reconsideration under Maryland Rule 4-345, which was denied by the court.” This language may allow a court to reconsider a sentence to facilitate an §8-507 commitment even if the defendant’s motion for reconsideration was not filed within 90 days of the initial imposition of sentence, a prior reconsideration had been denied, or after the expiration of the five-year limitation imposed by the recent changes to Rule 4-345.

Local Drug and Alcohol Councils

New Health-General §8-1001 creates Local Drug and Alcohol Councils in all Maryland counties. While local groups currently administer or advise regarding the allocation of drug and alcohol treatment money, this enactment details membership (two judges are among the 19 required members) and responsibilities for local councils, which include prioritizing criminal justice treatment needs.

PBJ

A new §6-230 of the Criminal Procedure Article allows a sentencing court to grant probation before judgment (PBJ) upon the successful completion of “any treatment ordered as a condition of probation.” Alcohol or drug-related §21-902 driving offenses are excluded. This language should allow a defendant to receive a second PBJ upon successful completion of treatment even though the defendant had received a prior PBJ in a drug possession case.

Probation Revocation

New §6-231 requires that during a revocation of probation hearing the court “shall consider any evaluation or recommendation of any health professional licensed under the Health Occupation Article” and “consider relevant information about the defendant’s drug or alcohol abuse.” The violation of probation court also shall “make a finding on the record as to the defendant’s amenability to treatment and the interest of justice.” Even though a circuit courts’ violation of probation decision is reviewed through an application for leave to appeal, the court should articulate the factors considered including treatment success.

Nolle Prosequi and Stet with the Requirement of Drug or Alcohol Abuse Treatment

New Criminal Procedure Article §6-229 creates a category of “Nolle Prosequi and Stet with the requirement of Drug or Alcohol Abuse Treatment.” This new diversion category does not change stet and nolle prosequi as currently defined. This section merely creates a new limited stet and nolle prosequi requiring a DHMH evaluation as a condition precedent.

The full article can be viewed at:
[www.courts.state.md.us/
 september_04_jm_lipman.pdf](http://www.courts.state.md.us/september_04_jm_lipman.pdf)

Eliminating the Paper Trail, cont. from p. 9

for judges, clerks, court employees and attorneys. Tony Dix, administrative manager for the Baltimore City Circuit Court, says asbestos litigation lends itself well to an electronic filing system.

“It works here because of the relatively small number of attorneys, the commonality of their approach, the type of pleadings and the work that has been done in this area in the past,” said Dix. “The actual technology being used isn’t terribly complicated, so it’s an easy learning curve for any fully trained civil clerk.”

Dix noted that e-filing has dramatically reduced the amount of paperwork in the civil clerk’s office, which in turn, has office personnel dedicating more time and resources to other court-related responsibilities. He cautioned, however, that their success might not be easily transferable to other types of litigation.

“If the litigation includes parties other than the plaintiff and defendant filing documents, that can really complicate the system,” he said. “It’s so important to have everyone on board, and to fully evaluate potential outcomes before committing time and money to a project.”

Future Endeavor

Recently, a committee consisting of judges designated for the Business and Technology Case Management Program and clerks’ association members was formed to study the concept of e-filing for business and technology cases. The committee passed a recommendation and a proposed plan, which was approved in principal by the Conference of Circuit Judges.

“The next step is to find the right location(s) to pilot the plan,” said Prince George’s County Circuit Court Judge Steven I. Platt, “likely in a jurisdiction or jurisdictions with a high volume of business and technology cases.”

Judge Platt said the biggest challenge will be setting the plan in motion. Judge Platt, who studied e-filing programs in Baltimore City and in the federal courts, admitted that implementation could be a lengthy process considering the time and resources necessary to interview prospective vendors, design the program, conduct adequate training and secure funds for start-up and operations. He envisioned implementing a fee structure similar to Baltimore City’s program to help finance the system, and anticipated that business and technology attorneys would buy into a system that had the potential to make a dramatic impact on the court filing process.

“You can see the benefits with Baltimore City’s asbestos docket,” he said. “The lawyers are all for it, conceptually, because they save time and money from making all those copies. By not having all these boxes and files in their office, there will be substantial time savings for clerks, judges and their staff.”



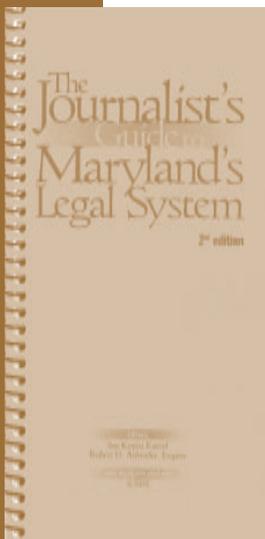
Surf's Up: www.courts.net

Looking to browse other state or the federal court’s website? Interested in electronic filing issues or online docket access? Searching online for court policies or rules from other court systems? All this information can be found by logging onto www.courts.net. This free website, produced privately by *Yclipse Technologies*, offers quick and easy access to local, trial, appellate, state and federal court websites across the nation. The website also provides information and analysis on ‘hot button’ judicial issues, a listing of judicial opinions and an awards section for law-related websites. One of the main tools of the website, however, is the easy navigation to an impressive listing of court websites.

Judicial Conferences to be Held This Fall

Just announced—

- Circuit court judges will hold a one-day conference on Friday, October 29, 2004 at the Miller Senate Office Building in Annapolis, Md. Conference planners are currently putting together an agenda/program and should make a formal announcement by the end of the summer. For more information, contact Roxanne McKagan at 410/260-1407.
- The District Court will hold its annual conference on October 1, 2004 at the Robert F. Sweeney District Court Building in Annapolis, Md. The morning session will feature welcoming remarks from Chief Judge Bell, District Court Chief Judge Vaughan and Judge Mimi Cooper (Harford County), who chairs the Judicial Education Committee. The morning session will include a presentation on new case law from Judges Patrice Lewis (Prince George's County) and Scott Davis (Wicomico County). During the afternoon, breakout sessions will be held: Judge George Lipman (Baltimore City) will present a program on the new revisions to the Health General Article, Secs. 8-505-507. Judge Norman Stone (Baltimore County) will conduct a session on bankruptcy as it pertains to District Court proceedings; and Judge Angela Eaves (Harford County) will present a program on the top 10 issues to address in domestic violence protective order or peace order hearings. For more information, contact Barbara Allison at 410/260-1528.



New Journalist's Guide Hot off the Presses

The second edition of the Journalist's Guide to Maryland's Legal System is now available. The guide is a representative sketch of how the legal system works, including a broad view of the court system. The guide was created as an educational resource for journalists covering the courts and writing and reporting on the legal system. The publication has been supported by the Court's Bench-Bar-Media Advisory Group—composed of representatives of the Maryland Judiciary, the Maryland State Bar Association, and the Maryland Pro Chapter, Society of Professional Journalists. Limited copies of the guide are available from the Court Information Office by calling 410/260-1488, or you can download a copy from the Maryland Judiciary website at <http://www.courts.state.md.us/journalistguide2003.pdf>.

Vince Marsiglia takes over as new Executive Director of Budget and Finance

Making A Financial Transaction

Vince Marsiglia, a veteran authority in the accounting profession who has served the State of Maryland for the past 11 years, has been named the new Executive Director of Budget and Finance for the Maryland Judiciary.



photo by Dan Clark

“We are extremely fortunate to have someone of Mr. Marsiglia’s broad and diverse expertise as the top budget and finance executive for the Maryland Judiciary,” said Frank Broccolina, State Court Administrator. “His many years of experience in budget formulation, financial reporting, projections and analysis, account-

ing and systems administration, along with his comprehension of the court’s economic standing, makes him ideal for this position.”

Marsiglia was born and raised in Baltimore, where he received an undergraduate degree in accounting in 1982 from Johns Hopkins University. He spent nearly 25 years in private industry, earning his CPA in 1994, and has worked for three state agencies including the State Highway Administration (SHA) and the Maryland Port

Administration (MPA). Marsiglia joined the courts in 2001 as deputy director of finance, and last October served as the department’s acting executive director. As the new executive director of budget and finance, he replaces Margo Wheet, who transferred to the Maryland State Retirement Agency after heading the court’s finance department since 2000. “I think Margo had a tremendous impact on the Judiciary’s financial reporting and also the day-to-day financial management,” said Marsiglia. “She laid the groundwork for the current system that we have today, which we are continually improving upon.”

Marsiglia said that his experience working for large agencies such as SHA and MPA in various financial and analytical positions has prepared him for state government accounting and financial management. One of his main goals as finance director is to continue to evolve the department into an efficient and proactive customer-oriented office.

Marsiglia said his biggest challenges are to monitor and manage the court’s budget, maintain efficiency with budgeting funds and maximize the utility of dollars to best serve the Judiciary’s needs. He is fully aware of the state’s financial climate, but is also cognizant of the funds necessary to continue the growth of the court system and its employees.

“We strive to be as financially responsible as possible, and we are being proactive in managing and monitoring our budget,” he said. “We will continue to be ever diligent in the efficient management of our budgetary appropriations, but we will also serve the needs of the judiciary at all times.”

New Domestic Violence Video, Website Launched

The Judicial Conference’s Committee on Public Awareness has released a new video explaining the process for obtaining a domestic violence protective order from the courts. The video is narrated by committee chair Judge C. Yvonne Holt-Stone, co-chair Judge Lenore R. Gelfman, and Judge H. Gary Bass, and features clerks, court commissioners, members of the police, domestic violence center staff and real victims of domestic violence. The video is produced by the Court Information Office. Copies are available by calling 410/260-1488.

The Judiciary will soon be unveiling a domestic violence website which will provide information on court procedures, court forms and resources. The website is designed to assist people in emergency situations, help those who need long term solutions to family violence, and provide background and resource information to the general public and service providers. The site will combine information from the District Court, circuit courts and Department of Family Administration. It will also provide county resource profiles and links for further information. The new website can be found at <http://www.courts.state.md.us/domesticviolence/index.html>.



Helping Hands

By Dennis Weaver, Clerk of the Circuit Court in Washington County

As interest rates remain at historic lows and the deluge of land record filings continues, circuit court clerks' offices across the state continue to search for ways to deal with the high volume. The metropolitan areas and the "bedroom" counties surrounding them are harder hit than most.

The overwhelming volume of recordings in some offices has been impossible to keep up with, despite inventive ideas to streamline the process, temporary assistance (temps) and long hours put in by both employees and managers. Even staff members from other areas of the offices have been trained in various steps of the land recording process and are working overtime—leading to a growing case of 'burn out' from the constant pressure. Rest assured, even for those who aren't getting much rest, help is on the way.

Easing Pressures

At a recent Maryland Circuit Court Clerks' Association meeting, Calvert County Circuit Court Clerk Kathy Smith floated the idea of clerks' offices helping one another. She suggested recruiting offices that do not have a backlog to provide man-hours to help offices that are experiencing problems. Frederick County Circuit Court Clerk Sandra Dalton—whose office has its own backlogs problems—made the first move by sending two temps from her office to assist Howard County, where an upcoming physical move of the land records division was applying additional pressures. Dalton suggested that the move would be much smoother if the backlog could be reduced prior to the moving day. "You may call me crazy, but I believe that if you help someone, help will come to you," Dalton said.

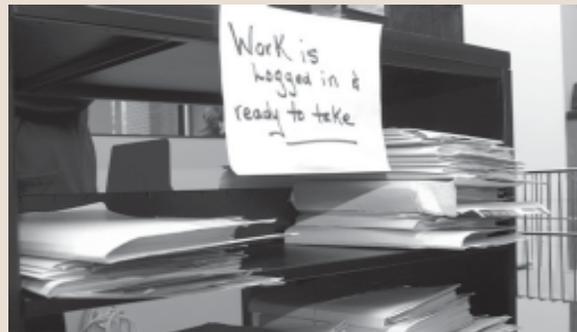
Not only was she correct, but Dalton started a positive trend across the state. Clerks from Washington County Circuit Court brainstormed on ideas to assist neighboring Frederick County and its backlog. Because both counties have the same version of the land records imaging/index-

ing software, Washington County employees can index Frederick County documents remotely from their home office. Washington County indexers Angie Gum, Pat Bachtell, Susie Suder and Shannon Smith are doing just that. After first learning the local system, they are logging in long hours and weekends to index for Frederick County. Frederick County staff verifies the accuracy of the index information entered by the Washington County staffers to ensure that any local differences that may have been missed are caught by those who best know the Frederick County process.

In another example, Amy Moran, a land records clerk in Allegany County Circuit Court, spent three working days in Rockville to assist with the backlog in Montgomery County Circuit Court. Moran, who provided assistance with numbering instruments and indexing, was one of many employees in the Allegany clerk's office who were interested in assisting another county in easing its backlog.

Efforts by clerk's offices to assist one another have not gone unnoticed. The Administrative Office of Courts is planning two pilots aimed at providing assistance to counties with a heavy land records backlog. The first pilot involves a team of temps stationed at Judicial Information Systems (JIS) headquarters on Riva Road in Annapolis, who will conduct remote indexing for a particular jurisdiction. In the second pilot, a team of temps "blitz" a county by going on-site full time and assisting in all phases of the recording process until that county's backlog has been relieved. If the pilots are successful, the same approaches will be used to help other jurisdictions that are experiencing problems.

"Our motto is, 'Where there's unity, there's strength,'" said Dalton. "We hope our efforts set an example for the state that sharing should go beyond county lines."



(Top) Clerks assist other counties with backlog relief. (Bottom, l-r) Clerks Deb Hartman and Bonnie Fuss.

photos by Jack Fino



News from the Bench

Timothy E. Meredith was appointed to the Court of Special Appeals. Meredith, a longtime practicing attorney, replaces Judge Clayton Greene, who was appointed to the Court of Appeals.

Brett W. Wilson was appointed to the Circuit Court for Dorchester County. Wilson, a former state's attorney, replaces Judge Donald F. Johnson, who retired.

Terrence J. McGann was appointed to the Circuit Court for Montgomery County. McGann, a longtime practicing attorney, replaces Judge Paul A. McGuckian, who retired.

Mickey J. Norman was appointed to the Circuit Court for Baltimore County. Norman, an assistant state's attorney, replaces Judge John F. Fader II, who retired.

M. Kenneth Long was appointed to the District Court for Washington County. Long, a former state's attorney, replaces Judge R. Noel Spence, who retired.

Sally C. Chester was appointed to the District Court for Baltimore County. Chester, an assistant public defender, replaces Judge A. Gordon Boone, Jr., who retired.

Edward P. Murphy was appointed to the District Court for Baltimore County. Murphy, a longtime practicing attorney, replaces Judge I. Marshall Seidler, who retired.

The following judges recently retired from the bench. No additional appointments have been made as of press time.

Hon. Andrew L. Sonner, Court of Special Appeals

Hon. Thomas J.S. Waxter, Jr., Circuit Court for Baltimore City

In Memoriam:

Warren B. Duckett, Jr., retired judge who sat on the Anne Arundel Circuit Court bench from 1988 to 1995.

Lewis R. Jones, retired judge who sat on the Garrett County District Court bench from 1971 to 1982.

Civil Appeal Information Report Revamped and On-Line

The revised Civil Appeal Information Report is now available and ready for immediate use. The revised report, approved by the Court of Special Appeals in June, re-groups the old form into a more logical format, and is much easier to understand and file. The report is used by judges on the Court of Special Appeals, circuit and county administrative judges, attorneys who file appeals in civil cases and *pro se* appellants in civil cases.

Pursuant to Md. Rule 8-205, information reports are generally required from attorneys and *pro se* parties appealing a civil case to the intermediate appellate court. The report must be completed, signed and filed within 10 days of noting an appeal or cross-appeal. The report is not required for appeals of juvenile causes and appeals by inmates related to their confinement.

For judges on the Court of Special Appeals, the form serves to identify related appeals, detect premature appeals and improve the process by which cases are selected for a Pre-Hearing Conference with a member of the intermediate appellate court. For attorneys and *pro se* appellants, the report is a preflight checklist. It helps to focus appellants upon possible procedural trouble spots, *e.g.*, lack of transcripts, improper interlocutory appeals, and appeals from judgments of fewer than all claims and all parties.

The revised Civil Appeal Information Report is available on-line—on the judiciary's website at www.courts.state.md.us and by clicking the "Court Forms" link—and at the circuit court clerks' offices.

Court Information Office

Robert C. Murphy Courts of Appeal Building
361 Rowe Blvd.
Annapolis, Maryland 21401
www.courts.state.md.us

Clerks Hold 'Feel Good' Luncheons

The Worcester County Circuit Court Clerk's Office is cooking up some serious morale boosting. Every month, the clerk's office holds "feel good" luncheons aimed at enhancing communications, improving office relations and lifting spirits. Because the clerk's office is actually comprised of two departments—Land Records/Business License and Civil/Criminal/Paternity/Juvenile, the departments rotate hosting the themed luncheons from month to month. Office employees pitch in for food, decorations and entertainment. Shown here, the clerk's office held a "Fiesta Style" luncheon, featuring piñata invitations, Clerk of Court Steve Hales strumming the guitar, court employees dressing in Mexican attire and of course, some spicy food.



upcoming

■ SEPTEMBER

- 1 Law Clerk Orientation for incoming trial court law clerks, Annapolis, JTC
- 22-23 Judicial Institute Programs, Annapolis, JTC

■ OCTOBER

- 1 District Court Judicial Conference, Annapolis
- 21-22 Judicial Institute Programs, Annapolis, JTC
- 29 Circuit Court Judicial Conference, Annapolis