



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

Hon. Sheila R. Tillerson Adams
Circuit Court for Prince George's
County

Hon. Nathan Braverman
Baltimore City District Court

**Hon. Kathleen Gallogly Cox Vice-
Chair**
Conference of Circuit Judges

Hon. John W. Debelius, III, Chair
Conference of Circuit Judges

Hon. Thomas C. Groton, III
Circuit Court for Worcester County

Hon. Susan H. Hazlett
Harford County District Court

Hon. Karen A. Murphy Jensen
Circuit Court for Caroline County

Hon. James A. Kenney, III, Chair
Retired and Recalled Judges
Committee

Hon. Peter B. Krauser,
Chief Judge
Court of Special Appeals

Hon. Karen H. Mason
Prince George's County District Court

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

Hon. Barbara Waxman
Baltimore City District Court

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

Hon. Eugene Wolfe
Montgomery County District Court

Hon. Sharon L. Hancock, Chair
Conference of Circuit Court Clerks

Pamela Harris
State Court Administrator

Jennifer Keiser, Vice-Chair
Conference of Court Administrators

Carol Llewellyn-Jones,
Administrative Clerk
District Court

Judy Lohman, Administrative Clerk
District Court

Sally Rankin, Chair
Conference of Circuit Court
Administrators

Hon. Wayne A. Robey, Vice-Chair
Conference of Circuit Court Clerks

Roberta Warnken, Chief Clerk
District Court

Faye Matthews, Secretary
(410) 260-1257

MARYLAND JUDICIAL COUNCIL

Maryland Judicial Center
580 Taylor Avenue
Annapolis, MD 21401

Meeting Minutes June 24, 2015

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair
Hon. Sheila R. Tillerson Adams
Hon. Nathan Braverman
Hon. Kathleen Gallogly Cox
Hon. John W. Debelius, III
Hon. Susan H. Hazlett
Hon. Karen A. Murphy Jensen
Hon. James A. Kenney, III
Hon. Peter B. Krauser
Hon. Karen H. Mason

Hon. Barbara B. Waxman
Hon. Alan M. Wilner
Hon. Eugene Wolfe
Hon. Sharon Hancock
Pamela Harris
Carol Llewellyn-Jones
Judy Lohman
Sally W. Rankin
Hon. Wayne Robey

Others Present:

Hon. E. Gregory Wells
Hon. Gary G. Everngam
Faye Matthews
Mark Bittner

Lou Gieszl
Melinda Jensen
Pamela Cardullo Ortiz
Stacey Saunders

A meeting of the Judicial Council was held Wednesday, June 24, 2015, at the Judiciary Education and Conference Center, beginning 9:30 a.m. Chief Judge Barbera began the meeting by welcoming everyone and then called for approval of the minutes of the previous meeting.

Judge Hazlett moved for approval of the minutes of the May 20, 2015 meeting, followed by a second to the motion by Judge Waxman, who also noted that her name was misspelled as did Ms. Llewellyn-Jones. The motion passed with the aforementioned corrections.

1. **SharePoint Demonstration**

Mark Bittner provided an overview of SharePoint to the Council, including how to access the Council's page and a review of the various features. He noted that the documents from the previous meetings have been uploaded to shared documents section on the site. Mr. Bittner also stated that as the committees enter dates on the calendars on their SharePoint sites, the Council's calendar will automatically update. Technical questions regarding the site should be addressed to Mr. Bittner. If members would like to have documents uploaded, they should contact Ms. Matthews.

2. **Grant Awards**

Lou Gieszl and Melinda Jensen briefed the Council on changes to the grants process, noting that a workgroup comprising Administrative Office of the Courts' staff was formed to review all processes and documents. As a result of the review, a number of forms were standardized, including the budget workbook which allows consistent financial reporting across all grant-making departments. The grants website was revamped and now contains the grants policy, general grant conditions that apply to all grants, all notices of funding availability (NOFAs), all grant applications, and other pertinent information. In addition, the website contains links to special grant conditions, as well as all archived grants.

Other improvements include electronic worksheets that automatically populate the quarterly reports to alleviate repetitive data entry. Changes also were made to the grant review process resulting in greater transparency. For Fiscal Year 2016, each grant-making department received a modest increase, which will be passed on to the grantees. In addition, all grant-funded positions will receive a 2 percent cost of living adjustment along with all other State-funded employees.

The Grants Advisory Workgroup of the Court Operations Committee has discussed providing training so that all courts are equipped with the requisite tools to apply for internal and external grants as opportunities avail themselves.

Any questions regarding grants or the grant process should be directed to Melinda Jensen at melinda.jensen@mdcourts.gov or Lou Gieszl at lou.gieszl@mdcourts.gov.

3. **Strategic Plan**

Ms. Harris presented the *Strategic Plan for the Maryland Judiciary 2015-2020* to the Council, noting that it will serve as the guiding document for the Judiciary for the next five years. The plan includes the mission, vision, and goals. A copy of the plan will be distributed to courts across the country, as well as to the judges and employees of the Maryland Judiciary.

Ms. Harris commented that the plan has to be a living document, adding that the document helps to illuminate how much the Council has accomplished, as well as how hard the committees are working. She thanked everyone who is working to make the plan a reality. Chief Judge Barbera echoed Ms. Harris' sentiments, noting that the vision is working.

Mr. Gieszl briefed the Council on the strategic plan checklist which will serve as the working document for the initiatives, strategic goals, and objectives. Everyone will be able to track progress along the way. The Council was asked to submit any corrections or updates to the checklist to Mr. Gieszl.

4. Rule 4-601 – Electronic Warrants

Judge Everngam briefed the Council on Rule 4-601, which permits electronic warrants. He noted that as the Court Technology Committee discussed procedures to implement the Rule, it became readily apparent that conflicts between the Rule and the statute (Criminal Procedure 1-203) have to be resolved. The rule is effective July 1, 2015 and the statute that informs the rule was effective October 1, 2014. Following passage of the legislation, a number of judges moved to implement electronic warrants, absent the rule.

Judge Everngam discussed some of the issues addressed by the Court Technology Committee, including what constitutes reliable email and how to vouch for the security of the equipment used by entities outside the Judiciary. He also discussed the need for the judge and the requesting individual to make arrangements prior to the transmission of the electronic warrant, as well as the need for the transmission to take place near the time of the arrangement. Other considerations include the need to ensure that only the officer and the judge receives the faxed documents. The State Court Administrator is required to designate the format of the emailed search warrants. JIS has determined that Adobe Echo Sign is secure and that Adobe Pro will permit PDFs to be edited so that the judge can edit the warrant if he or she determines that certain provisions contained therein have to be modified prior to issuance. It was noted that the judge cannot edit the application or the affidavit, only the warrant. Once the judge applies his or her signature using Adobe Echo Sign, the warrant becomes non-editable.

Judge Everngam reviewed the draft procedures developed by the Court Technology Committee. The procedures address the two authorized electronic methods – facsimile and electronic mail. He stressed that the Committee's preferred method of transmission is electronic mail. The draft procedures also include the steps a judge should take to ensure the transmissions are secure, as well as the format in which the documents should be transmitted. Finally, the procedures address how the warrant documents should be maintained, indicating that the documents should not be filed with the clerk's office until the printed inventory report and return are received.

Discussion ensued around how the judge would be able to ensure adequacy of the security of the agencies' equipment. It was suggested that language be added to the procedures to require the administrative judge to coordinate with the law enforcement agencies regarding security. Judge Wilner discussed a number of issues, including concerns around the statute not limiting electronic submission to non-court hours, the location of the facsimile machines, and whether a judge violating the policies/procedures if they are incorporated into the Rule is grounds for suppression. He added that the details surrounding security need to be addressed by JIS and other experts as deemed necessary, with assurances about the adequacy thereof. Judge Wilner also noted a concern surrounding when a judge has questions about the application and affidavit, indicating that the questions have to be recorded and under oath because probable cause has to be determined by the four corners of the affidavit.

Judge Waxman expressed concerns regarding having only one signed copy, which is not shown to the individual on whom the warrant is being executed. She inquired as to what happens if there are changes, such as a date change or an amendment, adding that the return is only on the original, which is the only copy admissible in court. Judge Waxman inquired as to how the judge determine will determine the original.

Judge Everngam responded that the Committee had many of the same concerns, but developed the procedures based on the Rule as it exists. He added that he is willing to have the Committee and JIS work with the Rules Committee to discuss outstanding issues.

The Council discussed the need to work out the issues, noting that the legislation permits electronic submission, but does not require it and that the Judiciary should ensure that security protocols and other procedures are in place before moving forward. It was noted that while a number of judges and/or courts already permit electronic submission, there should be some level of Judiciary-wide consistency with respect to procedures and security protocols. It is for that reason, Judge Everngam noted, that the Court Technology Committee is proposing standard procedures. Judge Wilner stated that not permitting electronic warrants is not a violation of the statute or the Rule.

After further discussion, Judge Cox moved that Chief Judge Barbera issue an administrative order directing the administrative judges in the respective circuit and district courts in each jurisdiction to meet to develop protocol for the implementation of electronic search warrants, giving consideration to the procedures drafted by the Court Technology Committee and with guidance from JIS, regarding appropriate security standards for the receipt and issuance of search warrant documents. Following a second to the motion by Judge Hazlett, the motion passed.

5. Court Operations Committee Update

Judge Wells briefed the Council on the work of the Court Operations Committee. He noted that the Committee had met twice and that the subcommittee and workgroups are active and meeting regularly. He provided the following subcommittee and workgroup updates:

Jury Use and Management Subcommittee – The subcommittee is reviewing policies and procedures established by the various courts and developing best practices. In addition, the subcommittee is working on the jury manual and reviewing recommendations from the Maryland State Bar Association concerning *voir dire*.

Forms Subcommittee – The subcommittee is drafting policies/procedures regarding how forms are vetted to ensure participation from all affected groups, without having to expand the subcommittee’s membership. Judge Wells noted that there is no point person from the circuit courts to inform the use of forms similar to that in the District Court. The chair is working to identify someone to serve in that capacity. The subcommittee is working to ensure effective communication, consistency in the types of forms, and timely dissemination of forms for review.

Courthouse Equity Subcommittee – The subcommittee reviewed the survey results from the court equity survey conducted by the Administrative Office of the Courts to analyze perceived inequities. After which, the subcommittee established three main priorities on which to develop policies to ensure equity – safety and security, access, and services.

Case Management Subcommittee – The subcommittee reviewed modifications to the case time standards for both the appellate and trial courts and made recommendations to the Council regarding the same. The subcommittee plans to conduct a comprehensive analysis of the linkage between differentiated case management (DCM) and case time standards.

Grants Advisory Workgroup – The workgroup is reviewing grant processes, the grants policy, and notices of funding availability. The workgroup also is discussing training to ensure all courts are equipped with the requisite tools to apply for grants.

Records Retention Workgroup – The workgroup is working in collaboration with the workgroup of the Court Technology Committee gathering information and setting priorities. The workgroups are discussing the interface between records

retention and MDEC, including scanning, coding, and whether paper records can be destroyed.

Court Reporting Workgroup – The workgroup continues to build on the work of the previous committee, developing uniform standards.

6. Education Committee Update

Judge Hazlett briefed the Council on the work of the Education Committee. On behalf of the Committee, she requested the Council's approval to require magistrates to complete the same number of Judicial Institute hours required for judges, in addition to the required domestic law programs. Judge Cox moved for adoption of the Committee's recommendation. Following a second to the motion by Judge Adams, the motion passed.

She then discussed the draft Educational Training Policy that sets forth the protocol for approval of all Judiciary-sponsored training, as well as training hosted in Judiciary facilities. Judge Adams moved for adoption of the policy. Following a second to the motion by Judge Cox, the motion passed.

Judge Hazlett then discussed the draft Attendance Policy for the Judicial Institute of Maryland. She highlighted the changes that were made since the last Council meeting that included the addition of language regarding late arrivals, early departures, and makeup classes, as well as language that advises judges to notify their administrative judges if they are unable to attend a Judicial Institute program for which the judge is registered. The changes also address that absences will be charged to the judge's annual leave and include a provision requiring the program to made-up within a certain time period.

Judge Hazlett noted that the Committee could not reach consensus regarding the collection of attendance data, indicating that the issue may be addressed to some extent with the implementation of HCM. After some discussion, Judge Debelius moved for adoption of the policy. Judge Jensen seconded the motion. Following the second to the motion, a number of questions were put forth. Judge Kenney inquired about how the attendance of retired recalled judges would be addressed. Chief Judge Barbera responded that JHRD and the Judicial Institute should collaborate on the reporting protocol. Judge Wolfe inquired about adding language indicating that failure to attend may be subject to other action by the Judiciary. Judge Hazlett noted that the Committee's sentiment was that publicizing the policy may address the issue. Sally Rankin added that the Committee concluded that the policy could be revisited after a period of time if deemed necessary. Following further discussion, Judge Wolfe withdrew his amendment. Judge Wilner noted that the policy only applies to judges and that if magistrates are now required to complete the same number of hours, it should be expanded to include them as well.

Judge Wilner's amendment to the policy was adopted. The motion passed.

Action Items

- Chief Judge Barbera will issue an administrative order regarding electronic warrants.
- Judge Hazlett will make the changes to the Judicial Institute Attendance Policy and Educational Training Policy and distribute as appropriate.

There being no further business, the meeting adjourned at 12:17 p.m. The next meeting is scheduled for July 15, 2015, beginning 9:30 a.m.

Respectfully submitted,

Faye Matthews

Faye Matthews
