

# Judicial Administration

## JUDICIAL ADMINISTRATION

Under Article IV, §18(b) of the Maryland Constitution, the Chief Judge of the Court of Appeals is the “administrative head of the judicial system of the State.”

More than forty years ago, the Maryland Legislature took an additional step to provide the administrative and professional staff necessary to assist the Chief Judge to carry out the administrative responsibilities under the Constitution by enacting §13-101 of the Courts and Judicial Proceedings Article. This statute established the Administrative Office of the Courts under the direction of the State Court Administrator, who is appointed and serves at the pleasure of the Chief Judge. The State Court Administrator and the Administrative Office of the Courts provide the Chief Judge with advice, information, facilities, and staff to assist in the performance of the Chief Judge’s administrative responsibilities. The administrative responsibilities include, but are not limited to, human resource administration, preparation and administration of the Judiciary Budget, planning and research, and administration of the family divisions of Maryland’s courts. Staff support is provided to the various policy-making bodies within the Judiciary, as well as the conferences that support the Judiciary. Additionally, the Administrative Office of the Courts serves as secretariat to the Appellate and Trial Court Judicial Nominating Commissions. Staff also is responsible for the complex operation of case management systems, collection and analysis of statistics, and other management information. The office also assists the Chief Judge in the assignment

of active and former judges to address shortages of judicial personnel in critical locations.

Following are some of the initiatives undertaken within various departments of the Administrative Office of the Courts during the last year.

### **The Department of Family Administration**

The Maryland Judiciary continued its efforts to improve the experiences of families and children that come before the court by promoting an efficient, effective system of family justice.

**How Are We Doing?** With a grant from the State Justice Institute, the Judiciary developed four survey instruments to gather input from court users including litigants, attorneys, self-represented persons and mediation clients. The surveys were developed to permit the Judiciary to evaluate its performance in serving families in light of the *Performance Standards and Measures for Maryland’s Family Divisions*. Over the coming year, the tools will be used on a sampling basis. The first data collected will serve as a benchmark, permitting the court to measure improvements in customer satisfaction over time, and to identify areas needing improvement.

In other evaluation efforts, the Foster Care Court Improvement Project (FCCIP), with the help of consultants from the American Bar Association, recently conducted a review of its efforts over the past seven years to improve the court’s role in child protection cases. The FCCIP also has been actively

involved, with other state partners, in a federal assessment of the state’s child welfare system.

### **Improving Access to Justice for the Self-Represented.**

The Judiciary participated in a nationwide, grant-funded study of programs designed to assist the self-represented. Maryland was the lead state in the study, and coordinated the evaluation of programs in eleven different courts in six states. Five Maryland self-help programs were evaluated using an assessment tool developed by the Trial Court Research and Improvement Consortium. Court staff conducted surveys and courtroom observations, gathering input from judges, masters, attorneys, self-help program staff and litigants on how well court programs serve the self-represented. Outside evaluators then spent a total of four weeks visiting the five Maryland sites, and produced a detailed assessment report of each. The assessments will be posted on the National Center for State Courts’ website, to serve as a national benchmark for other court-based self-help programs. The evaluators’ recommendations will be used by the Judiciary to make improvements in how Maryland responds to the needs of self-represented litigants.

### **Addressing Underlying Issues.**

Many families involved in the child protection system have underlying substance abuse problems. By addressing the substance abuse problems of parents, courts and agency partners can often get to the root cause of child abuse and neglect. By addressing the needs of parents,

these courts can protect children from further harm and increase the likelihood that children will remain in permanent, stable homes. The Judiciary's Foster Care Court Improvement Project has joined forces with Maryland's Drug Treatment Court Commission to create a Statewide Dependency Drug Court Team. The team, which includes representatives from a broad range of state agencies serving families, has participated over the past year in a series of federally-funded training sessions to assist them in planning and developing "dependency drug courts." They will be working with Maryland jurisdictions to create and implement these specialty courts to address substance issues in child protection cases.

**Broadening Minds, Expanding Horizons.** The Department of Family Administration at the Administrative Office of the Courts provided a number of specialized courses and conferences for family court professionals in the state during Fiscal Year 2004. These included:

A symposium on **Custody Decision-Making in Maryland.** The symposium was sponsored by the AOC along with the Custody Subcommittee of the Judiciary Conference Committee on Family Law, the University of Maryland School of Law, the University of Baltimore School of Law, the Woodrow Wilson International Center for Scholars, Division of United States Studies, and the law firm of Butler, McKeon and Associates.

A **Family Caseflow Workshop**, a one and half-day seminar for domestic and juvenile case managers working in the courts.

An expanded juvenile conference - the **Child Abuse, Neglect and Delinquency Options (CANDO) Conference.** This event, formerly known as the annual CINA Conference, for the first time added a 3<sup>rd</sup> day of seminars on delinquency issues. Seminar tracks were offered for judges, masters, agency professionals and attorneys.

Training for **pro bono attorneys** willing to **represent parents in CINA cases.** This effort was intended to increase the availability and quality of representation available to parents in these cases.

A conference, jointly sponsored with Maryland Mediation and Conflict Resolution Office entitled, **A Bridge Over Troubled Waters: Meeting Challenges in Court-Related Family Mediation.**

A total of **60 hours of basic and child access mediation training** for 48 judges, masters and court professionals.

#### **Promoting Pro Bono Activity**

New rules that took effect in 2002 have required each county in Maryland to create a Local Pro Bono Committee. Each local committee is charged with conducting a local legal needs assessment and developing an action plan to address those needs. The Judiciary's Standing Committee on Local Pro Bono Legal Service has provided support and technical assistance to the local committees in these efforts.

To date, seven local committees have completed and submitted their Local Plans to the Standing Committee. Each specifies action steps to increase access to legal services for those in need. Building on local plans, the Standing

Committee will be preparing and submitting a State Pro Bono Plan to the Chief Judge of the Court of Appeals by July 1, 2005.

#### **Pro Bono Reporting**

The Maryland Judiciary completed the first full cycle of collecting data from attorneys who are now required to report annually on their pro bono activities. Data for Calendar Year 2002 was compiled and analyzed in a report released in October 2003. The report, *Current Status of Pro Bono Service Among Maryland Lawyers, Year 2002*, provides an excellent benchmark that will permit the Judiciary to evaluate its efforts to promote pro bono activity among the bar over time.

Major findings included the following:

Among 30,024 lawyers in Maryland, 47.8 percent reported some pro bono activity and the remaining 52.2 percent did not report any pro bono activity.

- The total number of pro bono hours rendered in 2002 was 995,615 hours among 30,024 Maryland lawyers
- Higher proportions of lawyers in two rural areas of Maryland – the Western and Eastern Regions – rendered pro bono services compared with lawyers in other more metropolitan regions.
- The Eastern Region reported the highest percentage of lawyers with 50 or more pro bono hours among full time and part time lawyers, followed by the Western Region.
- Caroline County had the highest percentage of full time lawyers (52.9) rendering 50 or more pro

bono hours, followed by Somerset, Wicomico, Worcester, and Cecil Counties – all counties in the Eastern Region.

- Howard County had the lowest number of its full time lawyers reporting 50 or more pro bono hours at 19.3 percent, followed by Baltimore County (19.5 percent), Charles County (20.4 percent), Baltimore City (21 percent), and Montgomery County (22.6 percent).
- Among Maryland lawyers who rendered pro bono service hours, 54.1 percent rendered their services to people of limited means; 13.4 percent to organizations helping people of limited means; 5.7 percent to entities in matters of civil rights; and 26.7 percent to organizations such as “non-profits” where they furthered those entities’ organizational purposes.
- The Family/Domestic practice area is the top pro bono service area while it is the fifth ranked primary practice area.
- The total hours spent participating in activities for improving the law, the legal system, or the legal profession was 406,477.6 hours.
- The total financial contribution to organizations that provide legal services to people of limited means was \$2,208,001.
- Lawyers who reported that their primary practice area is family law tend to provide more pro bono service, controlled for geographical region and working status.
- Lawyers who are prohibited from providing pro bono service, as well as those who are retired or work part time rendered

significantly less pro bono hours.

- Lawyers who dedicated hours participating in activities for improving the law and who offered financial contributions to organizations that provide legal services to people of limited means rendered significantly more pro bono hours.

## **Human Resources Department**

### **Policy Development**

The Judiciary Human Resources Department had another successful and productive year. During this reporting period, 10 new integrated human resources policies were drafted by the Human Resources Policy Committee, and approved and implemented by senior management. Those policies are as follows:

- Policy on Americans with Disabilities Act
- Policy on the Attendance Incentive Program
- Policy on Educational Assistance
- Policy on the Employment Probationary Period
- Policy on Grievances, Disciplinary Appeals and Whistleblower Reprisal Protections
- Policy on the Involuntary Termination of Employment and Rejection on Probation for Regular Employees and Employees on Initial Probation
- Policy on Reassignment and Transfer
- Policy on Reinstatement
- Policy on Telework

### **Policy on Workplace Violence**

It is noteworthy to mention that whistleblower reprisal protections are explicit in the new grievance policy. These protections were inherent in the former policies but were not specifically mentioned. The new policy was designed to reassure employees that reprisals against them for good faith actions in these matters would not be tolerated.

The new policies, although not totally new concepts in some cases, are the result of many months of development work, Judiciary-wide feedback, and numerous edits on the part of the Committee and Judiciary Human Resources staff. Prior to the implementation of these new policies, the AOC, Circuit Courts, and the District Court operated under similar but separate policies. The new “integrated” policies apply to the entire Judiciary, a reflection of the “One Judiciary” concept fostered by the Chief Judge of the Court of Appeals.

### **Recruitment**

Cost containment measures were implemented again during this reporting period, which greatly affected the recruitment of vacant positions. Vacancies were frozen for most of the year, and then later filled. During the year, exceptions to fill certain vacancies were granted in cases of urgent/critical need. HR Recruitment staff was extremely successful in coordinating the hiring of over 330 jobs during the year, throughout the Judiciary.

### **Professional Development**

The Maryland Judiciary, in its mission to promote professional development for regular judicial employees, has two unique court certificate study programs. Both

programs consist of 12 courses offered over a three-year period. Applicants must meet eligibility requirements and are selected by a five-member Application Selection Panel. A Panel and the Professional Development Committee oversee the programs. The Professional Development Unit, of the Human Resources Department, is responsible for the course development, audio-visual, speaker assignments, etc. for each one or two-day course for each program.

The Court Professional Certificate program is a basic curriculum for Judiciary employees seeking expanded job knowledge and professional growth. This program was first offered in 2003 to 40 selected participants. Four courses were presented in 2003 and scheduled in 2004. The program will be completed in 2005 with participants receiving a certificate of completion. In 2004, another group of 31 participants began this program. Applicants will not be accepted for 2005. The application process for new participants will resume in 2006.

The Court Supervisor/Manager Certificate program began in 2004 with 19 selected participants. The courses are designed to attract Judiciary supervisors and managers. Those who have completed the Court Professional Certificate also can apply for this program. The first year participants were able to gain a thorough knowledge of supervisory skills and tools for effective leadership. Additionally, applicants will not be accepted for 2005. The application process for new participants will resume in 2006.

### **Work/Life Balance**

The vision statement of the Judiciary Human Resources Department is to "Enable the

Judiciary to become the employer of choice, by delivering progressive, innovative, results-oriented human resources to internal external customers". In further realizing that vision, a Telework program was implemented during this reporting period. This program offers Judiciary employees the opportunity to work from home, eliminating sometimes-lengthy commute times, while providing savings in both time and travel expenses. Equally, telework programs help the community, since it leads to reduced traffic congestion and pollution. Employees who have enrolled in this program report that being able to telework allows for quiet time to concentrate on their work, and ultimately more work gets done. Currently, the Judiciary has 30 employees enrolled in the telework program.

### ***Drug Treatment Court Commission of Maryland***

The Drug Treatment Court Commission was established by order of the Court of Appeals in 2002. The Commission is comprised of representatives from Maryland's three branches of government, state and defense lawyers, and the research, academic and faith based communities. In January 2003, the Commission was staffed with an Executive Director and a Deputy Director. The Commission meets on a quarterly basis and utilizes its members on subcommittee activities in the following program areas: developing staff training, establishing best practices, creating program start up and operational guidelines, formulating a multi agency centralized management information system specifically enhanced to support drug court programs and evaluation needs, and developing a funding plan to

absorb program costs through grants, fees and county, state and federal sources.

During the Fiscal Year 2004 the Commission's accomplishment include:

### **Training**

Two jurisdictions were awarded training opportunities from the Bureau of Justice Assistance in collaboration with the National Drug Court Institute and the National Council for Juvenile and Family Court Judges.

Ten jurisdictions were awarded participation in the 2005 Bureau of Justice Assistance Drug Court Planning Initiative (DCPI)

Developing a budget and training plan to accommodate statewide needs, special topics and regionalized plans.

### **Funding**

The Commission sponsored the funding of six drug court coordinators through a grant appropriated through the state budget.

Throughout the year, the Commission advised drug court teams of grant opportunities, assisted in writing and editing grant proposals.

St. Mary's County acquired funding for a juvenile drug court

The Commission received a Statewide Grant to enhance its MIS program with HATS.

The Commission was the recipient of a Maryland Transportation Authority DUI drug court program grant. This program is a pilot grant for three DUI drug courts. The counties participating in this grant are Harford, Howard and Anne Arundel District Court.

## **Statewide Management Information System (MIS)**

In 2003, the Commission instituted HATS as Maryland's Drug Court statewide management information system.

In 2004, the Commission received funding to enhance the HATS program to better support the needs of drug court. Through a partnership with Department of Juvenile Services and the Governor's Office of Crime Control and Prevention, there was continued development of funding and programming to centralize the data collection for drug courts in Maryland with HATS.

The Commission received a technical assistance grant from the National Center for State Courts to create a data dictionary. The dictionary will serve to centralized drug court definitions to allow drug courts in Maryland to have exact definitions to improve the integrity and comparability of program results across Maryland.

## **Evaluation**

In 2004, the Commission contracted with Northwest Professional Consortium, Inc. (NPC) to complete the first Cost Benefit Analysis on Baltimore City and Anne Arundel County Adult Drug Court.

In 2005, another statewide project is planned to evaluate the process and outcome of all active adult drug courts.

## **Family/Dependency Drug Courts**

Family/Dependency drug courts are a response to the need for greater accountability of parents of abused and/or neglected children and the treatment and justice systems intended to serve them. These programs are available to

parents who have lost custody of their children or who are in danger of losing custody of their children due to abuse and/or neglect where the courts have jurisdiction over the case and family. Parents must be determined to be addicted or have a high likelihood of addiction to drugs and/or assessed for domestic violence, trauma and other mental health concerns and are offered to treatment.

## **DUI/Drug Courts**

The DUI/Drug Court pilot project is a collaborative effort between the Drug Treatment Court Commission and the local courts. In the District Court for Anne Arundel, Harford and Howard Counties, the Drug Courts will work with their respective State's Attorney's Offices, the Office of the Public Defender, the Department of Parole and Probation, the Health Department, private treatment providers, and community organizations to expand their current programs to effectively deal with the hardcore DUI offender in their respective jurisdiction.

## **Other Commission News**

The Commission recognized six active drug courts in January 2003. As of 2004, the statewide count for operational drug courts is eighteen. The Commission meets with drug court coordinators on a quarterly basis to incorporate each program into the movement of drug court policy in the state.

*National Drug Court Month:* With written support from the Executive Branch, then Governor elect, Robert Ehrlich honored this judicial program by providing the Commission with a Proclamation acknowledging May as National Drug Court Month in Maryland. Multiple counties participated in drug court month by holding

graduations and community activities and presentations. During the National Association of Drug Court Professionals Training held Milwaukee, Wisconsin, three juveniles received national awards for their photo and written work. A banquet in honor of the drug court teams was held in May at the Miller Senate Building in Annapolis.

*University of Maryland Cooperative Extension Program* and the drug court program in Maryland will be partnering to expand the range of programming to the drug court population of children and their families. The land grant program, known as 4-H to most, has a wealth of resources for families and they are not exclusively agriculture based as most believe. The Commission is excited to expand the nature of this partnership during the next year.

## **Judicial Information Systems**

### **UCS**

The Anne Arundel County CORTS case management system was successfully converted to the UCS civil and criminal systems. The UCS Juvenile module is scheduled to be installed in Anne Arundel and Carroll Counties during the third quarter of 2004. The UCS criminal module is scheduled to be implemented in Baltimore County during the second quarter, 2005.

### **Managed LAN - Local Area Networks Upgrade**

The primary objective of this project is to reduce Total Cost of Ownership (TCO) while increasing service quality, as well as to implement software distribution, software tracking, and remote control processes. The project has reached the target of 3,000

workstations updated to Judiciary standard configuration.

### **The Centralized Statewide DV Database and Application**

The purpose of this project is to centralize all domestic violence data for the entire State (District Court, Circuit Courts, Commissioners, and the Circuit Court for Montgomery Prince George's Counties) into one database for the purpose of both inquiry and update. The project is currently in the requirements phase. Domestic Violence Sub-projects

The Domestic Violence automated forms generation process using UCS is now in place for Baltimore City, Harford, Carroll, Frederick, Kent, Garrett, Calvert, Talbot, Howard, St. Mary's, Somerset, Wicomico, and Washington Counties. Charles County is scheduled to receive this automated process next. Other counties are being scheduled.

The Centralized District Court DV Database, a project to centralize data from 35 separate District Court DV Oracle databases into one central District Court DV database, will allow for centralized inquiry and reporting, and seamless transfer of cases. The project is currently in the final development and testing phases.

### **MQ Series/ CJIS Reporting to DPSCS**

Judicial Information Systems is collaborating with the Department of Public Safety on this joint project that requires real-time and batch shipment of CJIS data from the Judiciary to the DPSCS. The intention is to enhance the timelessness and accuracy of the data by developing a more flexible and efficient means of interacting with the applications of the Department of Public Safety and Correctional Services (DPSCS). The daily shipment of District Court

data is currently in production. Daily shipment of Circuit Court data, currently in the requirements and design phase, is scheduled for the first quarter 2005.

### **Access to Court Records**

The Court of Appeals voted to adopt new rules clarifying access to court records in paper and electronic format at a public hearing on February 9, 2004. The rules will become effective October 1, 2004. Judicial Information Systems is reviewing systems for rule compliance and will remediate those systems accordingly. The rules likely will increase the demands for electronic access to court information and the Judiciary is considering a variety of ways to improve access to court information, using technology to implement the rules in consideration of the numerous requests it receives for data.

### **Network Re-Engineering**

The network upgrade project goal is to replace the existing network infrastructure with a modern, standards based communications network, with up-to-date policies and security mechanisms, providing a more efficient network architecture capable of supporting increased application demands and projects leveraging newer technologies. To achieve this goal, JIS is replacing non-supported equipment, implementing circuit technology that is scalable (bandwidth) and more robust, and implementing standards for security and network management. The Judiciary network will leverage Network Maryland (the State-wide area network infrastructure) services, such as Internet services and interLATA provisioning, to the extent possible. Judicial

Information Systems is completing Phase I, which includes replacing unsupported circuit technology, and a four-site pilot. Procurement for Phase II, which entails converting 13 sites to the new technology, is complete. Procurement for Phases III and IV has been partially completed.

### **Enterprise Mainframe Upgrade**

Judicial Information Systems upgraded the enterprise mainframe to current system technology, a robust, scalable system that increased processing capability by 45% and doubled the storage capacity. The upgrade also included newer technology for system backup and recovery.

### **Maryland e-License**

This project provides the capability for businesses and individuals to apply for and receive business licenses more easily and efficiently. This prototype application is utilized Statewide in the 24 Circuit Court jurisdictions. A number of very effective (and significant) Prototype Enhancements were deployed during Fiscal Year 2004. With these enhancements, additional license-processing improvements have been demonstrated. As funding becomes available, additional enhancements including general Internet accessibility will be developed and deployed.

### **Land Records**

Judicial Information Systems and the Maryland State Archives have collaborated to provide comprehensive digital land record access. The robust front-end of ELROI combines with the mdlandrec.net system to offer access to all counties from any location. The rollout for new

counties is scheduled to be completed in early 2005. The thirteen existing ELROI sites will then be upgraded.

### **CaseFlow Time Standards**

The CaseFlow Time Standards system automates the data collection and reporting of specific case events. Version 2 of the Caseflow Assessment application, for Calendar Year 2003 (January 1, 2003 - December 31, 2003), included additional data fields and reports. Application enhancements included: conversion of all case reports to the WebFocus software environment, a Judicial Information Systems strategic software tool that enables users to view reports in tabular and graphical formats; and database conversion to Oracle, the Judicial Information Systems standard database management system. Major case types include Circuit Court criminal, civil, domestic relations, and juvenile delinquency cases, and District Court criminal, 21-902, traffic must appear, traffic payable, civil large claims, and civil small claims.

### **Procurement and Contract Administration**

#### **Office of Contract Compliance and Business Affairs**

The Maryland Judiciary's Minority Business Enterprise (MBE) Policy requires that the Agency structure its procurements to attempt to obtain minority business participation on all Maryland Judiciary contracts in excess of \$50,000 in the areas of service, (i.e., janitorial), information technology to include equipment, services and supplies, office supplies, furniture and equipment, commodities and small renovation.

During Fiscal Year 2004, the Maryland Judiciary let thirty-nine contracts with a total dollar value of \$16,423,277.92. The Office of Contract Compliance and Business Affairs reviewed and assessed a total of thirty-three contracts for a total dollar value of \$8,731,204. Five of these contracts after award were less than \$50,000; four contracts having a total dollar value of \$1,158,000 were pending at the close of the fiscal year; three with a total contract value of \$185,000 were cancelled; and the remaining twenty-five contracts, valued at \$7,182, 222, were assessed for minority business participation. Six minority business enterprises acted as subcontractors, receiving \$1,005,124.54 in subcontract dollar amounts. An overall MBE goal achievement goal of 14 percent was realized.

While minority businesses are important to the economy, many of them lack sufficient expertise to grow in critical areas such as in the Information Technology arena. Providing access to the right network of information and resources can make a big difference in their achieving success and improving the overall MBE initiative for the Maryland Judiciary.

In furtherance of the Minority Business Enterprise initiative for the Maryland Judiciary, the Office of Contract Compliance and Business Affairs (MBE) in conjunction with International Business Machines (IBM) are currently developing a Mentor/Protege Program. Minority businesses can benefit from the important business knowledge and expertise of larger firms. Mentoring is a business to business relationship that includes learning and information sharing. These business to business relationships can create mutual benefits for both, larger and smaller companies, as well as between firms in the

economic mainstream and firms that have less access to resources. These relationships can be essential to business success, as well as increase the number of companies that provide services to the Maryland Judiciary.

During the year, the MBE either hosted or participated in a number of minority business outreach programs. These programs provided an opportunity for minority and small businesses to showcase their businesses, network with other vendors, and build a relationship with the end users of the Maryland Judiciary and the staff of the Department of Procurement and Contract Administration. Additionally, the MBE liaison officer served in the capacity of speaker or panelist at several minority and small business events throughout the State.

### **Program Services Unit**

During Fiscal Year 2004, the Program Services Unit held three orientation workshops for Court Interpreters with approximately 120 attendees. Certification testing was conducted in Arabic, Cantonese, Korean, Mandarin, Russian, Spanish and Vietnamese languages. An eight-session skills-building workshop for Spanish interpreters was held prior to administering the Spanish exam. A new Standing Committee on Court Interpreters was established with that committee currently addressing many issues including background checks, payment policies and a new written exam. In addition, the Committee is investigating the feasibility of translating court forms into several languages.



## ***Report of Maryland's Commission on Racial and Ethnic Fairness in the Judicial Process***

In early 1987, the Maryland Judiciary and the Maryland State Bar Association created the Special Joint Committee on Gender Bias in the Courts to determine whether gender bias existed within the legal community and court system. The Select Committee on Gender Equality Report, issued in May of 1989, reached the conclusion that gender bias had a major and negative impact on the Maryland judicial system and recommended a series of changes. A major priority of the Select Committee was to conduct a retrospective study designed to measure changes in attitudes, perceptions and experiences that have occurred over the past ten years. As part of this study, the Select Committee expanded its examination of bias within the judicial system to include issues of racial and ethnic bias at the request of Chief Judge Robert M. Bell. The second report of the Select Committee on Gender Equality was issued in October 2001.

In response to growing concerns over racial and ethnic bias in Maryland's court system and the release of the second report of the Select Committee on Gender Equality, Chief Judge Bell created the Commission on Racial and Ethnic Fairness in the Judicial Process by Administrative Order, February 1, 2002. The Commission's primary focus is to raise both public and professional awareness of the impact of race and ethnic origin on the fair delivery of justice in Maryland.

To carry out its purpose, the Commission shall:

1. Develop a methodology to reduce or eliminate unequal access,

and unequal treatment, experienced as a result of or perceived as a part of judicial processes within the Maryland court system;

2. Increase public confidence in the equal application of the law in Maryland for all citizens, by the elimination of bias and the misconceptions of bias;

3. Identify initiatives to raise both public and professional awareness of the impact of race and ethnic origin on the fair delivery of justice in Maryland courts; and

4. Recommend the development of educational programs for the bench and bar as to the means by which any racial or ethnic bias that may exist may be eliminated from the Maryland court system.

The Fairness Commission at its first meeting invited H. Clifton Grandy, Esq., Senior Court Manager, District of Columbia Courts and Dr. Yolanda P. Marlow, Administrative Assistant, Administrative Office of the New Jersey Courts, to discuss the experiences of the District of Columbia and New Jersey courts. They also gave presentations on establishing a research agenda. The results of these meetings provided the Commission with direction for its research method.

Collection of the data for this study involved three phases. First, a questionnaire was designed and approved by the Commission and its consultant, Anita M. Daniel of Market Insight. The objective of the questionnaire was to identify the experiences of actual court users - primarily litigants - as they relate to racial, ethnic and economic fairness. It also was hoped that the questionnaire would be helpful in determining what, if any, corrective actions are necessary. It was decided that the

questionnaire would include questions based upon the economic status of litigants in order to examine whether perceptions of fairness have multiple root causes as opposed to singular racial or ethnic bases.

The questionnaire contained 136 questions and took approximately twenty to twenty-five minutes to complete. Responses received through the end of April 2003 were included in the study.

Shortly after the mailing of the questionnaire, the second phase of data collection began. The Commission held five (5) public hearings at various locations across the State during the week of February 24-28, 2003 to allow citizens the opportunity to speak directly to Commission members. Citizens were allowed to give testimony in public or confidentially. The Court Information Office issued press releases about the public hearings. In addition, Commission members sent notices of the hearings in Spanish and Korean to special interest groups, and many of such groups were directly contacted by Commission members.

Due to the limited attendance at the hearings, 1,500 additional questionnaires were mailed to Administrative Judges in the District and Circuit Courts with requests to have them completed by persons participating in litigation, and returned to the consultant. The questionnaires were apportioned on a caseload basis determined by the percentage of a particular jurisdiction's caseload compared to the State's total caseload.

The third method of data collection was to accept written testimony from anyone who alleged they had experienced a racial or ethnic bias in the court system. Written testimony was acknowledged and accepted by the Commission if postmarked by April 30, 2003.

Upon receipt of the public

comment, and the responses to the questionnaire, the Commission spent six months formulating its findings, deciding upon its recommendations, and preparing preliminary Commission reports. An executive summary, recommendations, and the final report of the Commission were

approved in the first week of March 2004.

The printed Report, comprising well more than 150 pages including anecdotal information and tables developed from the questionnaire responses, was presented to the Chief Judge Robert M. Bell before

the end of the fiscal year. Upon the presentation to the Chief Judge, the current work of the Commission was concluded. The Report is available to the general public.

<b><i>Members of the Commission on Racial and Ethnic Fairness in the Judicial Process</i></b>	
<i>Hon. Dale R. Cathell, Chair</i> <i>Hon. Charles B. Day, Vice-Chair</i> <i>Carmen M. Shepard, Esq., Vice-Chair</i>	
Jonathan Ilson Ahn, Esq. Hon. Marielsa A. Bernard Donna Burch Alice Chong, Esq. Michele Livojevic Davis, Ph.D. William B. Dulany, Esq. George Fauth Elizabeth M. Hewlett, Esq. Hon. Michele D. Hotten	Hon. W. Newton Jackson, III Rev. Nathaniel Johnson Charlene Cole-Newkirk, Esq. Spyros J. Sarbanes, Esq. Gustava E. Taler, Esq. Joseph A. Trevino, Esq. Kimberly Smith-Ward, Esq. Bernard Wynder
<i>William L. Howard, Ed.D., Staff</i>	

## ***Court-Related Agencies***

## COURT RELATED AGENCIES

### **Attorney Grievance Commission of Maryland**

The Attorney Grievance Commission of Maryland was created July 1, 1975 by rules promulgated by the Court of Appeals of Maryland. The current rules, effective July 1, 2001,

replaced the original rules. Those rules are found in Title 16 of the Maryland Rules beginning with Rule 16-701 and resulted in the processing of disciplinary complaints in a shorter period of time than under the prior rules.

The Commission is composed of nine attorneys and three public

members. Each member is appointed by the Court of Appeals for a term of three years. The Commissioners maintain their practices in several different counties.

The Court designates one attorney member as Chair and one attorney member as Vice-Chair.

<b>Five-Year Summary of Disciplinary Action</b>					
	<b>FY 00</b>	<b>FY 01</b>	<b>FY 02</b>	<b>FY 03</b>	<b>FY 04</b>
Inquiries Received	1,348	1,410	1,468	1,559	1,610
Complaints Received (Prima Facie Misconduct Indicated)	543	460	420	475	485
<b>Totals</b>	<b>1,891</b>	<b>1,870</b>	<b>1,888</b>	<b>2,034</b>	<b>2,095</b>
Complaints Concluded	605	585	556	435	487
<b>Disciplinary Action by No. of Attorneys:</b>					
Disbarred	9	7	15	12	22
Disbarred by Consent	11	16	15	5	6
Suspensions	28	26	27	35	23
Temporary Suspensions (new rules)	0	0	1	0	1
Public Reprimands - Court of Appeals	16	12	8	7	6
Reprimands by Commission (public)	0	0	12	12	22
Private and Bar Counsel Reprimands	25	32	26	1	0
Inactive Status	1	0	0	4	2
Dismissed by Court	3	3	8	6	6
Reinstatements - Granted	3	3	6	5	3
Reinstatements - Denied	2	2	1	4	2
<b>Total No. of Attorneys Disciplined</b>	<b>98</b>	<b>101</b>	<b>119</b>	<b>91</b>	<b>93</b>
<b>No. of Active and Voluntary Attorneys Admitted to Practice in Maryland</b>	<b>29,166</b>	<b>29,863</b>	<b>30,646</b>	<b>31,224</b>	<b>31,934</b>

David D. Downes, Esq., Baltimore County, is the Chair. Linda H. Lamone, Esq., Anne Arundel County, is Vice-Chair. Commissioners serve without compensation. Their powers and duties are set forth in Maryland Rule 16-711.

Subject to approval of the Court of Appeals, the Commission employs a Bar Counsel. The Commission also employs an Executive Secretary to assist in its functions under the rules. The duties of the Executive Secretary are set forth in Rule 16-711(e). The duties of Bar Counsel are set forth in Rule 16-712. Bar Counsel serves at the pleasure of the Commission and is responsible for employment of his staff.

Bar Counsel and staff investigate allegations of misconduct by a Maryland attorney, a member of the bar of another state engaged in the practice of law in Maryland, and non-attorneys whose activities may constitute the unauthorized practice of law.

The Commission meets at least once each month to review the activities of Bar Counsel and staff. The Commission also reviews the income and expenditures of Bar Counsel to see that the budget, previously approved by the Court of Appeals, is honored. The Commission recommends to the Court of Appeals any necessary rule or administrative guidelines which affect the disciplinary system.

The Commission also meets, at least once a month, with the Executive Secretary. These meetings require Commission review of all recommendations of Bar Counsel and staff, and the recommendations of peer review panels provided for by Maryland Rule 16-743(e) as reflected in this report under the section entitled

“The Disciplinary Process.”

Rule 16-714 provides for a disciplinary fund. A condition precedent to the practice of law in Maryland is an annual payment each attorney is required to make to the fund. The Court of Appeals, by Order, establishes the sum required by this rule which is collected together with the sum required by Rule 16-811 to be paid to the Client Protection Fund. For Fiscal Year 2004, the assessment for the disciplinary fund was \$65.00 and that of the Client Protection Fund, \$20.00. Effective July 1, 2004, the assessment for the disciplinary fund will increase to \$100.00. Late fees are assessed for attorneys who fail to pay timely. An attorney who fails to pay the mandatory assessments within the time set forth by the Trustees of the Client Protection Fund may be decertified by the Court of Appeals and are not eligible to practice until the assessments and all late fees are paid.

The budget for the Commission is submitted for approval by the Court of Appeals prior to the beginning of the Commission’s fiscal year. The budget is public and is reflected in the Commission’s detailed annual report. The Commission’s financial records are audited by an outside certified public accountant. That report is filed with the Court of Appeals. A surety bond is maintained for Bar Counsel, the Office Manager and a Commissioner designated as Treasurer.

The Commission’s annual report is released in the Fall of each year and is distributed to courts, libraries, news media, disciplinary agencies in each state, every volunteer in the disciplinary system and to any others upon

request. That report expands on the activities of Bar Counsel and staff and provides statistical information about the types of ethical violations investigated and reports all public sanctions of attorneys.

The Commission has the added duties of receiving overdraft notifications of an attorney’s trust account, reports of targeted mailings by attorneys who engage in that practice required by Section 10-605.2 of the Business Occupations and Professions Article of the Maryland Code and, when necessary, undertaking the role of a Conservator of client files and bank accounts of any attorney who has been disbarred, suspended, is incapacitated, disappears or passes away and there is no one else to serve in that role.

The Commission has a web page linked to that of the Maryland Judiciary. This page enables a grievant to download a complaint form. A prospective grievant also may request a form to be sent by mail. All public disciplined attorneys are posted on the web site, which also contains a link to the Maryland Rules of Professional Conduct.

The Commission issues brochures in English and Spanish explaining the Commission and its purpose. The brochures are distributed to all courts in the State, as well as to public libraries.

The Commission staff, in addition to Bar Counsel, is composed of a Deputy Bar Counsel, eight Assistant Bar Counsel, six investigators, an Office Manager, an Administrative Assistant, two paralegals, eight secretaries and a receptionist.

### ***The Disciplinary Process***

Every grievance is reviewed to determine if further investigation is required. There were 2,095 grievances filed this fiscal year. One thousand six hundred and ten (1,610) were concluded without further investigation, generally based on the response from an attorney or a determination that the grievance was not within the jurisdiction of the Commission. A total of 485 were assigned for further investigation. This represented an increase from the number of investigations in the past two fiscal years.

Pending grievances assigned for investigation and not resolved at the close of Fiscal Year 2004 totaled 415, a slight decrease from the previous fiscal year when 417 were pending.

Unless the time for investigation of a grievance is extended for good cause, Bar Counsel is required to complete an investigation within 90 days after opening a file on the complaint. A failure to comply with the time requirements permits the Commission to take any appropriate action, including dismissal of the complaint and termination of any investigation.

When a "warning" is recommended by Bar Counsel or a peer review panel, the attorney must agree to accept it. A failure to accept a warning results in the Commission directing Bar Counsel to take further action.

When Bar Counsel and an attorney agree to a public reprimand or a conditional diversion agreement, the Commission may approve either disposition in the form submitted, request that changes be made, or reject and direct Bar Counsel to take other action.

Bar Counsel may decide to file

a statement of charges against an attorney to be heard by a peer review panel. These panels are composed of at least two attorneys and one public member. The panels meet informally, a reporter is not present. The panel may recommend to the Commission that the grievance be dismissed, the attorney be warned or that public charges be filed against the attorney. The panel also may report that, as a result of its meeting, the respondent/attorney and Bar Counsel have agreed to a public reprimand or a conditional diversion agreement. The Commission may either accept the recommendation of a peer review panel or reject it and decide what other disposition is appropriate. It is the Commission that has the final decision to direct Bar Counsel to file public charges against an attorney.

The Peer Review Committee is composed of public members solicited by the Commission from various sources. Attorneys who volunteer must be a member of the bar of Maryland who has actively and lawfully engaged in the practice of law in Maryland for five years. Judges of courts of record and attorneys who in the past have been disbarred, suspended or are the subject of a pending statement of charges or a public petition for disciplinary or remedial action may not serve. The annual mailing by the Client Protection Fund contains information for attorneys who wish to serve.

### ***Client Protection Fund***

During the past year, many changes occurred within the Fund. Computers were updated and every attorney licensed to practice law in this State was given a new identification number, finally

leaving behind the social security number as an identifier. This took a while to accomplish, but is now up and running smoothly.

A new trustee was appointed by the Court of Appeals to replace Richard A. Reid, who resigned last year. Leonard Shapiro, Esquire from Baltimore County was appointed to Mr. Reid's unexpired term.

During the past year, the trustees met on three occasions, one of which was a two-day meeting. They decided forty-five claims. Of these claims, the trustees agreed to reimburse claimants in twenty-seven of the claims. The trustees paid out a total of \$262,358 in claims this fiscal year.

Effective Fiscal Year 2004-2005 the following officers were elected: Barbara Ann Spicer, Chair, James W. Almand, Vice Chair/Secretary, and Douglas M. Bregman, Treasurer.

### ***State Board of Law Examiners***

The examining of candidates for admission to the Maryland Bar was a function of trial courts of the State of Maryland until the State Board of Law Examiners was created by Chapter 139, Laws of 1898. The Board presently is composed of seven practicing attorneys appointed by the Court of Appeals of Maryland. The mission of the Board and its administrative staff is to assist the Court of Appeals of Maryland in determining whether candidates for admission to the Maryland Bar possess the requisite qualifications to become competent practitioners of law.

Pursuant to the Rules Governing Admission to the Bar of Maryland, every person who seeks

**The State Board of Law Examiners**

Jonathan A. Azrael, Esquire; Chairman, *Baltimore County Bar & Baltimore City Bar*  
 John F. Mudd, Esquire; *Charles County Bar*  
 Robert H. Reinhart, Esquire; *Allegany County Bar*  
 Christopher B. Kehoe, Esquire; *Talbot County Bar*  
 Maurene Epps Webb, Esquire; *Prince George's County Bar*  
 Linda D. Schwartz, Esquire; *Montgomery County Bar*  
 David E. Ralph, Esquire; *Baltimore City Bar*

Results of examinations given by the State Board of Law Examiners during Fiscal Year 2004 are as follows:

<b>Examination</b>	<b>Number of Candidates</b>	<b>Total Successful Candidates</b>	<b>Number of Candidates Taking First Time</b>	<b>Number of Candidates Passing First Time*</b>
<b>JULY 2003</b>	1,426	935 (66%)	1,164	854 (73%)
<b>Graduates</b>				
University of Baltimore	222	133 (60%)	170	111 (65%)
University of Maryland	191	148 (77%)	171	137 (80%)
Out-of-State Law Schools	1,013	654 (65%)	823	606 (74%)
<b>FEBRUARY 2004</b>	575	298 (52%)	267	172 (64%)
<b>Graduates</b>				
University of Baltimore	139	84 (60%)	71	50 (70%)
University of Maryland	63	43 (68%)	35	24 (69%)
Out-of-State Law Schools	436	219 (50%)	213	125 (59%)

\*Percentages are based upon the number of first-time applicants.

a license to practice law in the state courts of Maryland must demonstrate that he or she possesses the legal competence and character and fitness necessary for admission to the Maryland Bar. Legal competence is demonstrated by presenting the requisite educational credentials and passing the Maryland Bar Examination. A candidate demonstrates the requisite character and fitness by submitting to an investigation of his or her background conducted by the Character Committees and the State Board of Law Examiners. The Court of Appeals of Maryland reserves to itself the authority to

decide whether to admit a Bar applicant after receiving recommendations from the State Board of Law Examiners and the Character Committees.

Recent law school graduates and attorneys who do not possess the qualifications to take the Out-of-State Attorneys' Bar examination, must take the General Bar examination, which is offered at the end of February and July each year. The General Bar examination presently consists of an essay test of five hours writing time which is usually offered on Tuesday, and the Multi-state Bar Examination (MBE), a 200-item,

six hour multiple choice test offered on the last Wednesday of February and July. The essay test is developed and graded by the State Board of Law Examiners. The MBE is a national test prepared and scored under the authority of the National Conference of Bar Examiners.

The subject matter of the essay test presently includes agency, business associations, commercial transactions, constitutional law, contracts, criminal law and procedure, evidence, family law, Maryland civil procedure, professional conduct, property, and torts. The MBE subjects

include constitutional law, contracts, criminal law and procedure, evidence, real property, and torts.

The results of general bar examinations given during Fiscal Year 2004 were as follows. A total of 1,426 applicants sat for the July 2003 examination; 935 (66%) passed. A total of 638 applicants sat for the February 2004 examination; 346 (54%) passed. Passing percentages for the two preceding fiscal years were as follows: July 2001, 70%; and February 2002, 44%; July 2002, 68%; and February 2003, 52%.

Experienced attorneys who meet the eligibility standards of Bar Admission Rule 13 may take a special, three hour essay examination limited in scope to the Maryland Rules of practice and procedure in civil and criminal matters and the Maryland Rules of Professional Conduct. The examination subject matter includes the Maryland Rules of Evidence, as well as rules and statutes governing certain non-litigation transactions and proceedings. The attorney examination, which is developed by the State Board of Law Examiners, is offered in February and July on the same day as the essay test for the General Bar examination (usually, Tuesday).

A total of 80 applicants took the July 2003 Out-of-State Attorneys examination, and 71 (89%) passed. In February 2004, 77 applicants took the Attorney examination, and 74 (96%) passed.

The Court of Appeals amended Bar Admission Rule 12 by order dated November 1, 2001 to require that a candidate who passes the Maryland bar examination take the oath of admission not later than 24 months

after the date that the Court of Appeals ratifies the Board's report for that examination. A candidate who fails to take the oath within the required time period shall reapply for admission and retake the bar examination.

Bar Admission Rule 11, effective August 1, 1990, requires all persons recommended for bar admission to complete a course on legal professionalism during the period after the announcement of the examination results and prior to bar admission. This course is administered by the Maryland State Bar Association, Inc., and was implemented beginning with the February 1992 examination.

### **Maryland State Law Library**

The Maryland State Law Library, as a court-related unit of the Judicial Branch, is primarily responsible for providing access to recorded legal information for the Judiciary and citizens of Maryland, whose lives and livelihood are increasingly impacted by the rule of law. The library's mission acts as a catalyst and guide in directing programming activities toward meeting the information needs of a very diverse customer base.

The mission of the Maryland State Law Library, as a support unit of the state court system, is to provide access for the law related information needs of the judiciary as well as the legal community, government agencies and the public. The library pursues a full range of traditional and technologically enhanced service strategies that provide timely, accurate and efficient access to the sources of law, including federal, state and local government information resources.

Originally established by the

Legislature in 1827 and restructured under the Judiciary in 1978, the library is currently staffed by eleven full time and four part-time employees. A State Law Library Committee, chaired by the Chief Judge of the Court of Appeals provides general policy-making guidance.

With a collection in a variety of formats totaling well over 400,000 volumes and access to multiple commercial online legal and general reference databases, the library provides remote and on-site information seekers the option to harvest three distinct and comprehensive libraries. Anglo-American law, Federal and Maryland government information and local history and genealogy make up the backbone of the library's print, microform and online information resources.

A sampling of Programs and projects initiated and continued during Fiscal Year 2004 included:

#### **Activities of the Technical Services Unit**

\*continued the development of a customized online catalog of historical and current Maryland county and municipal government codes on the library's web site (<http://www.lawlib.state.md.us>).

\*continued the cataloging and indexing of a large collection of Md. state agency regulations pre-dating COMAR (prior to 1974).

\*continued providing citations to Md. current and retrospective law articles appearing in legal newspapers and journals on the online catalog.



**Activities of the Public Services Department and Library Management**

\*participated in the MLAN, "People's Law Library" stakeholders group, providing active feed back and input on the redesign of that award-winning legal web site for low and moderate income Marylanders.

\*continued orientation programs developed to enhance appellate court law clerk use of the library's unique collections and expertise in legislative history research and utilization of secondary sources of legal authority.

\*continued the selective dissemination of library and judicial ethics information via monthly print and email notification to court officials.

\*moved into the second year of a Library Outreach Services program designed to extend professional library assistance/consulting service to the State's public county law libraries and liaison with various statewide public library initiatives. Began publication of a monthly *Maryland County Law Libraries Newsletter*.

\*added to the library's web-based legal pathfinder series a Resource Guide on *Unattended Children in Maryland*, and a soon to be released guide entitled, *Going to Court in Maryland? An Overview of the Judicial Process in the District and Circuit Court Civil Proceedings*.

\*managed the judiciary's state-wide computer assisted legal research contract.

\*continued support for the statewide LASI Citation Service extended to residents of all State correctional facilities - provided over 2,500 pages of photocopied legal resources requested by LASI.

\*completed the acid free reprinting of the historical classic, *Maryland Constitutional Law*, by Alfred S. Niles (1915).

\*contributed to the publication of an American Association of Law Libraries sponsored Resource Guide on *The Value of a Public Law Library*.

\*published a brochure - *Audubon's Birds of America on Permanent Exhibit at the Maryland State Law Library*.

Library staff continued to be very active in promoting the library and

its services by participating in numerous educational programs throughout the year. Among some of these presentations:

\*lectured Md. Justice Training Institute (25 teachers from across the State) on conducting case law research in a law library.

\*seminar for the Md. Public Justice Center staff on conducting Md. legislative history research.

\*library staff organized a program, *On-Line Law in the Old-Line State* open to all Judiciary employees. Carried out in conjunction with National Library Week and the National Legal Research Teach-In.

\*library staff coordinated the sixth annual Maryland County Law Library Conference, held in Ellicott City and hosted by the Howard County Public Law Library.

\*programmed the continuation of the Library's 175<sup>th</sup> Anniversary by hosting three well attended noontime lectures on Judicial Independence, Elder Law and the Md. Declaration of Rights.

\*participated in the Law Library Association of Maryland's 2004 Legal Research Institute - *Introduction to Legal Research*, at the University of Baltimore Law School.

\*conducted tour and lecture for the Kunta Kinte-Alex Haley Foundation Summer, 2003 Roots Program.

\*library research staff prepared supplementary reading lists for fourteen Judicial Institute programs being presented in Fiscal Year 2004.

<b>Summary Of Library Use Fiscal Year 2004</b>	
Reference Inquiries (in person, phone, mail and email)	28,300
Email Reference Inquiries Answered	2,400
Volumes Circulated to Customers	3,710
In-Person Visitors/Customers	15,900
Website Hits	139,000
Online Catalog (Mollie) Searches	113,000
Resources Cataloged and Edited	15,378
Exhibits (Lobby & Case)	7

## ***The Commission on Judicial Disabilities***

The Maryland Commission on Judicial Disabilities was established by Constitutional Amendment in 1966 in response to a growing need for an independent body to assist in monitoring the conduct of judges. A 1970 Constitutional Amendment strengthened the Commission. Its powers were further clarified in a 1974 Constitutional Amendment. In 1995, the General Assembly passed a proposed Constitutional Amendment that significantly altered the membership of the Commission. That Constitutional Amendment, among other things, added four additional lay members to the Commission. It was approved by Maryland voters in November 1996. By an Order dated June 5, 1996, effective January 1, 1997, the Court of Appeals renumbered the rules applicable to the Commission to Maryland Rules 16-803 through 16-810. On June 6, 2000, the Court of Appeals amended the rules pertaining to the Commission with the changes to be effective for all complaints, proceedings and actions filed or commenced after January 2001. For actions pending on January 1, 2001, the Court ordered that the amended rules apply "insofar as practicable."

The Commission now consists of three judges, one from the Court of Special Appeals, one from the Circuit Court, and one from the District Court; three members of the bar with at least seven years experience and five lay persons. All Commission members are appointed by the Governor, and they hail from different areas of Maryland. Membership is limited to two, four-year terms.

The Commission on Judicial

Disabilities serves the public and the Judiciary in various ways. Its primary function is to receive, investigate, and act on complaints against members of Maryland's Judiciary. The Commission's jurisdiction extends to all judges who are members of the Maryland Court of Appeals, Court of Special Appeals, Circuit Courts, District Courts, and Orphans' Courts. Pursuant to Maryland Rule 16-810, the Commission also supplies the district judicial nominating commissions with confidential information concerning actions taken other than dismissals or pending charges against those judges seeking nomination or appointment to other judicial offices.

The Commission members and staff continue to participate in judicial training and informational programs for judges, lawyers, and the public.

Numerous individuals write or call the Commission expressing dissatisfaction with a judge or with the outcome of a case or some judicial ruling. While some of these complaints may not come technically within the Commission's jurisdiction, the complainants are afforded an opportunity to express their feelings and frequently are informed, for the first time, of their right to appeal. Thus, the Commission, in an informal fashion, offers an ancillary, but vital, service to members of the public.

Complaints filed with the Commission must be in writing and under affidavit, but no particular form is required. Pursuant to Maryland Rule 16-803(h), a complaint must be under affidavit and allege facts "indicating that a judge has a disability or has committed sanctionable conduct."

Each complaint receives a consecutive docket number by the calendar year in which it is received and numeric order of the complaint in that year. Each complaint is acknowledged by letter from Investigative Counsel explaining the investigation and processing of the complaint (Maryland Rule 16-805(b)). Investigative Counsel may open a file and initiate an inquiry independently "upon receiving information from any source indicating that a judge has a disability or may have committed sanctionable conduct" (Maryland Rule 16-805(d)). Complaints opened by inquiry are investigated in the same manner as formal complaints.

Complaints filed without affidavits are labeled "LA." On receipt of such a complaint, Investigative Counsel notifies the complainant, in writing, about the necessity of filing an affidavit and supplies the complainant(s) with the proper language for the affidavit. If the affidavit is not received within 30 days of the date of notice, the Commission administratively closes the file (Maryland Rule 16-805(a)).

Having received a complaint against a member of the Judiciary, Investigative Counsel must determine whether the complaint alleges facts that, if true, would constitute a disability or sanctionable conduct (Maryland Rule 16-805(c)). If Investigative Counsel concludes that the case does not have such facial merit, the complaint is dismissed and the Investigative Counsel notifies the complainant and the Commission members of the dismissal. Otherwise, the Investigative Counsel has 90 days from the receipt of the complaint to complete a preliminary

### **Members of the Commission on Judicial Disabilities**

The Honorable Sally D. Adkins, Chair  
Associate Judge, Court of Special Appeals

The Honorable Marjorie L. Clagett <i>Associate Judge, Circuit Court for Calvert County</i>	Mr. William D. Berkshire <i>Anne Arundel County</i>
The Honorable Nancy Shuger <i>Associate Judge, District Court for Baltimore City</i>	Mr. James L. Clarke <i>Montgomery County</i>
William M. Ferris, Esquire <i>Anne Arundel County</i>	Ms. Patricia B. Pender <i>Howard County</i>
Aileen Oliver, Esquire <i>Montgomery County</i>	Mr. Samuel F. Saxton, Sr. <i>Prince George's County</i>
Paul D. Shelton, Esquire <i>Howard County</i>	Mr. William D. Schmidt, Sr. <i>Baltimore County</i>

The diversity of Commission membership in terms of experience, county of residence, gender, race, and age has been a distinct benefit in analyzing and handling complaints in an evenhanded and thorough manner. Commission members attend regular monthly meetings and actively participate in deliberations regarding each complaint, bringing to the discussion a wide range of professional experience and common sense.

investigation (Maryland Rule 16-805 (e)(5)). The Commission may extend the time period for a preliminary investigation for good cause for an additional 30 day period (Maryland Rule 16-805(e)(5)). Once the Investigative Counsel proceeds with an investigation, the judge is entitled to notice of the complaint, the name of the complainant, the substance of the complaint and his or her rights under the rules (Maryland Rule 16-805(e)(3)).

Information contained in complaints and gathered during the preliminary investigation is confidential (Maryland Rule 16-810(a)(2)).

Upon completion of the preliminary investigation, Investigative Counsel reports the results to the Commission and must recommend that one of four actions be taken:

(1) Dismissal of the Complaint with or without a warning (Maryland Rule 16-807(a)).

Dismissal with a warning may

be issued if the Commission determines that any sanctionable conduct that may have been committed by the judge will be sufficiently addressed by such a warning. A judge must, however, consent to the warning, and if the judge does not consent, the Commission has the choice of dismissing without a warning or proceed with public charges against the judge (Maryland Rule 16-807 (a)(2)). A dismissal is issued if the evidence fails to show that the judge has a disability or has committed sanctionable conduct. Either form of dismissal, with or without a warning, does not constitute discipline (Committee Note to Maryland Rule 16-807(a)(2)). Both the judge and the complainant are notified of the dismissal.

(2) Offering the judge a private reprimand (Maryland Rule 16-807(b)) or a deferred discipline agreement (Maryland Rule 16-807(c)).

Private reprimands are issued if

the Commission finds that the sanctionable conduct was not so serious, offensive or repeated to warrant formal proceedings and only if the judge agrees to accept the reprimand, and agrees (i) to waive the right to a hearing before the Commission and subsequent proceedings before the Court of Appeals, and the right to challenge the findings that serve as the basis for the private reprimand, and (ii) that the reprimand may be admitted in any subsequent disciplinary proceedings against the judge to the extent it is relevant.

For sanctionable conduct not so serious, offensive or repeated to warrant formal proceedings, the judge may agree to enter into a deferred disciplinary agreement with the Commission. A deferred discipline agreement is appropriate when Commission members conclude the judge should take specific and remedial action including undergoing specific treatments, apologizing to the complainant, participating in

educational programs, or working with a mentor judge. This agreement must include the items mentioned as (i) and (ii) in the preceding paragraph with respect to a private reprimand. Investigative Counsel then monitors the judge's compliance with the terms of the agreement. A judge's failure to comply with the terms of the agreement after written notice by Investigative Counsel may result in the Commission's revocation of the agreement and proceeding with other dispositions allowed by the rules. If Investigative Counsel notifies the Commission that the judge has satisfied the conditions of the agreement, however, the Commission shall terminate the proceedings.

The complainant(s) is/are notified of the issuance of the private reprimand or the deferred discipline agreement. Its contents are disclosed however, only if the judge gives written consent.

(3) Proceeding with further investigation (Maryland Rule 16-806).

Further investigation must be approved by the Commission. On approval, the Investigative Counsel must notify the judge in writing at his or her address of record and afford the judge the opportunity to file a written response to the complaint. The Commission may, for good cause, authorize the Investigative Counsel to issue a subpoena to compel the attendance of witnesses or the production of documents. "To the extent practicable, a subpoena shall not divulge the name of the judge under investigation." (Maryland Rule 16-806 (b)(3)) Court files with any motion concerning the subpoena are sealed.

Further investigation must be

completed within 60 days of its authorization by the Commission, but the time period can be extended for good cause. All proceedings under this rule are confidential (Maryland Rule 16-810 (a)(2)).

At the completion of the investigation, Investigative Counsel reports the results of the investigation to the Commission along with a recommendation that the complaint be dismissed, that an offer of private reprimand or deferred discipline agreement be issued, or that formal charges be filed against the judge.

#### (4) Issuing Charges.

If the Commission decides to bring formal charges against a judge, the charges may be served upon the judge "by any means calculated to give actual notice (Maryland Rule 16-808((b))). On receipt of the return of service, the Commission shall notify any complainant of the pendency of the charges. Within 30 days after the service, the judge can file a written response. Thereafter, the Commission notifies the judge of the time and place of hearing. The Complainant is also notified, and a notice is placed in the *Maryland Register*. The hearing is public.

Based on the information gleaned at the hearing, the Commission may, by a majority vote of the full Commission, dismiss the complaint, or based on clear and convincing evidence, issue a public reprimand or recommend that a judge be suspended, retired, removed or censured.

The Commission then makes a recommendation of its chosen course of action to the Court of Appeals. The Court of Appeals may adopt the Commission's recommendation, dismiss the case or order a different (either more or

less severe) discipline of the judge than the Commission recommended.

At times, retirements while investigations were ongoing, may result in the underlying complaint being dismissed.

Before complaints are formally initiated or where press coverage of some judicial actions prompt, many individuals telephone the Commission to register complaints. In Fiscal Year 2004, the Commission received numerous telephone calls. Callers are offered an opportunity to explain their grievances and also are informed about how to file a formal complaint. Callers are routinely sent a follow-up letter detailing the language and procedures necessary to file a formal complaint along with an explanation of the applicable confidentiality provisions of Maryland Rule 16-810.

During Fiscal Year 2004, the Commission considered 94 written complaints. Of the 94 complaints, 11 lacked affidavits, were outside of the Commission's jurisdiction or did not meet the requirements of the Rules. Six complaints were filed by practicing attorneys, 17 by inmates, and one was initiated by Investigative Counsel on his own initiative pursuant to Maryland Rule 16-805(d). The remaining 70 were filed by members of the general public. Some complaints were directed simultaneously against more than one judge, and sometimes a single jurist was the subject of multiple complaints.

Complaints against Circuit Court Judges totaled 72; 20 complaints were made against District Court Judges; and two complaints were filed against Orphans' Court Judges. There were no complaints filed against appellate judges.

Litigation over family law

matters (divorce, alimony custody, visitation) prompted 26 complaints, criminal cases (including traffic violations) prompted 24 complaints, and 37 arose from other civil litigation. Seven complaints failed to fit in any of those categories.

In the fiscal year ending June 30, 2004 the Commission held one public hearing, issued two public reprimands, one private reprimand, and one dismissal with a warning.

Seventeen cases remained open at the end of the fiscal year, pending further investigation or receipt of additional information.

The vast majority of complaints in Fiscal Year 2004 were dismissed because the allegations set forth in the complaints were found to be either unsubstantiated, or the conduct complained about did not constitute sanctionable conduct.

### ***Mediation and Conflict Resolution Office***

The Maryland Mediation and Conflict Resolution Office (MACRO) is a small court-related agency created and chaired by the Honorable Robert M. Bell, Chief Judge of the Court of Appeals. MACRO serves as an alternative dispute resolution (ADR) resource for the State.

Collaborating with stakeholders from all across the state, MACRO helps establish, expand, evaluate, and support conflict resolution education and services in courts, neighborhoods, schools, state and local government agencies, criminal and juvenile justice programs, family service programs, and the business community. MACRO has played a major role in stimulating dramatic increases in the number and quality of ADR programs in Maryland.

MACRO's vision is to have high quality ADR services and education increase the public's access to justice, make the courts more efficient and user-friendly, empower more people to control the outcomes of their own disputes, and promote a more peaceful and civil society. In working toward these outcomes, MACRO is guided by a detailed action plan called *Join the Resolution*, which was adopted by its predecessor, the ADR Commission, after an extensive, statewide, consensus-building process.

Fiscal Year 2004 was a very busy year for MACRO. During the year, MACRO's activities leveraged more than \$800,000 from other sources, as well as countless volunteer hours for conflict resolution programs around the State. In Fiscal Year 2004, MACRO provided assistance to over 80 ADR programs, and laid the groundwork for three important statewide collaborative projects that are attracting national attention as potential models for other states and organizations.

### ***The Maryland Program for Mediator Excellence (MPME)***

In order to maintain and grow the advances made in the appropriate use of mediation in Maryland, there has to be public trust and confidence in the skill levels of Maryland's mediators. Identified as an important priority in the ADR Commission's Action Plan, MACRO's work in the area of mediation quality assurance involved convening and organizing Maryland mediators for what turned out to be a four-year collaborative consensus-building process on the issue of mediator quality assurance. The

collaborative process included extensive work with Maryland practitioners organizations, combined with a series of regional public forums.

Building on experiences in Maryland, and examining program models from across the U.S. and Canada, MACRO collaboratively developed a new Maryland Program for Mediator Excellence (MPME). The MPME system is designed to help Maryland mediators, at every level of experience and in every practice area, improve the quality of their mediation practice.

MACRO's work on the MPME was a major achievement in Fiscal Year 2004, taking the system from the idea phase to the pilot program phase. MACRO organized a multi-stakeholder three-day Future Search Conference to refine the MPME and launch it into action. Numerous task groups were created at the Future Search. They worked on different parts of the MPME and came back together for a Future Search follow-up meeting, and are still working on component parts of the MPME, which include regional networks, mentoring, performance-based certification, continuing education, case discussion groups, ethics discussion groups, self-reflective practice, training and practice standards and a grievance process. MACRO is supporting pilot programs for the mentoring and certification components.

MPME participants will receive recognition for accomplishments within the program and note their achievements through a new online directory of Maryland ADR practitioners. As this one-of-a-kind program develops, MACRO believes Maryland will come to be known as a leader among states when it comes to maintaining

highly skilled mediation practitioners while contributing significantly to the overall advancement of the mediation.

MACRO also works to bring Maryland's conflict resolution community together, hosting conferences and participating in statewide dialogues about major issues in the Mediation field. In Fiscal Year 2004, MACRO initiated the first-ever Maryland Mediators Convention, a one-day, self-supporting event, organized by and for Maryland mediators.

### ***The Self-Assessment System for Court ADR Programs***

MACRO convened the Court Evaluation Group, made-up of court ADR program coordinators, court administrators and others from circuit court civil (non-domestic) and family ADR programs, and from the District Court, to develop collaboratively a system that will enable them to use their ADR program data to understand, improve, and capture the benefits of their programs. Maryland's court ADR programs collect data, but most do not have a system that enables them to use the data effectively.

In Fiscal Year 2004, the Court Evaluation Group completed the creation of group goals, objectives and indicators, and is refining evaluation tools. MACRO brought in a consultant to assess the hardware and software needs of the programs and to work with the Judicial Information Systems Department of the Administrative Office of the Courts. The self-assessment system will use a web-based data collection system and scanners to enable the court ADR program coordinators to compile their quantitative and qualitative data and receive a variety of

analytical reports based on their data.

No other state has such a statewide system to continually improve court ADR programs. This effort has attracted attention in other states as a potential national model.

### ***Public Awareness Campaign***

One of the biggest barriers to advancing the appropriate use of ADR is the public's lack of knowledge about ADR and how using ADR could be of benefit. In Fiscal Year 2004, MACRO laid the groundwork for a statewide public awareness campaign.

In collaboration with the Court Information Office, MACRO is planning a "mediation week," and the release of a series of posters, public service announcements, and a MACRO brochure. It also is planning to distribute ADR video tapes and to conduct targeted mediation awareness and other educational presentations. Some of the materials developed for this campaign, such as the "Mediation, It's Your Solution" posters, will be widely distributed across the state and around the country.

To help the public keep up with the growth of mediation programs statewide, MACRO keeps current a "Consumers' Guide to Mediation Services in Maryland," identifying and describing specific mediation programs operating in each county, both within and outside of the courts. MACRO also operates an e-mail listserv to keep the ADR practitioner community abreast of its work as well as to announce job and training opportunities, conferences, and other events that help to advance the dispute resolution field in Maryland.

Highlights of MACRO's Fiscal Year 2004 accomplishments in

each major area of its work are as follows:

### ***Circuit Court***

MACRO provides assistance for ADR projects in circuit courts throughout Maryland. MACRO works collaboratively with all of the circuit courts, and supports their efforts to create new dispute resolution programs, and to expand or enhance existing programs. MACRO provides start-up support for circuit court projects for up to three years. Recipients must report on efforts to make their programs self-sufficient and/or identify local support to maintain their programs for the long term.

Mediation is provided in all contested custody/visitation cases (except those in which there are allegations of domestic violence), and the use of mediation in other civil cases continues to expand statewide. The fastest growing mediation programs in the circuit courts are dependency mediation programs, which MACRO has helped to start in eight circuit court jurisdictions, with growing interest in many other parts of the state. Two kinds of dependency cases are being mediated in these programs. Child in Need of Assistance (CINA) cases are initiated when there has been an allegation of child abuse or neglect. Appropriate cases are referred to mediation to bring groups together that may include parents, social workers, attorneys ad litem for the children, educators, health care practitioners, and extended family members or other supporters of the family, to work with a mediator to develop a plan to support the safety of the child and the well-being of the family, with reunification of children with parents as an ongoing goal.

Appropriate Termination of

Parental Rights (TPR) cases are also referred to mediation among birth parents, adoptive parents, and service providers, all of whom work with a mediator to determine under what conditions the birth parents may have a future relationship, if any, with their child post-adoption. MACRO works closely with the Department of Family Administration of the Administrative Office of the Courts to help educate stakeholders about dependency mediation programs and to collaborate on best practices for court-related family ADR programs. MACRO also is supporting an in-depth evaluation of the TPR mediation program in Baltimore City in order to document the program's benefits to the court and to litigants.

The following circuit court ADR projects received assistance from MACRO in Fiscal Year 2004:

The Circuit Court for Anne Arundel County, to create a civil (non-domestic) mediation program, expand its use of mediation in family cases, and create a dependency mediation program. It also partnered with the Maryland Council for Dispute Resolution on a mediator skills assessment pilot project (which will also serve as a certification pilot for MACRO's Maryland Program for Mediator Excellence).

The Circuit Court for Baltimore City, to create medical malpractice and professional liability mediation programs. It is also hiring an ADR Programs Coordinator. Adoptions Together, an organization that conducts the TPR cases for the court, contracted with an outside evaluator to assess the program's accomplishments to date.

The Circuit Court for Baltimore County, to develop a dependency mediation video to be used by multiple jurisdictions.

The Circuit Court for Carroll County, to create a dependency mediation program

The Circuit Court for Howard County, to create a dependency mediation program, and to work with the local bar to continue and expand its civil (non-domestic) ADR program.

Based on dependency mediation program models MACRO supported in the courts listed above, similar programs are being established in the Circuit Courts for Allegany, Calvert, Frederick, Prince George's and St. Mary's counties.

The Orphans' Court for Baltimore City, to create a pilot probate mediation program, and MACRO is assisting several other Orphans' Courts, including Baltimore and Wicomico Counties, that are interested in starting probate mediation programs

Baltimore City's Legal Aid Bureau, to create a mediation program for under-served clients. It is working in partnership with the Pro Bono Resources Center, which is pairing clients with pro bono mediators and pro bono counsel.

MICPEL, to co-sponsor a Family Mediation Conference and the Maryland Mediators Convention of 2004 with MACRO. It coordinated a mediation scholarship program for retired judges, sponsored an advocacy training for lawyers in the realm of ADR, and trained mediators for the City's probate mediation program.

Court ADR program coordinators from across the state are collaborating to create a statewide court ADR program self-assessment system. Pilot data collection projects are planned for Fall 2004.

## ***District Court***

MACRO works collaboratively with the District Court ADR Office to support its mission to create and operate mediation and settlement conference facilitation programs in District Court jurisdictions across Maryland. All ADR services in the District Court are offered free of charge to litigants, and services are provided by volunteers from local bar associations, community-based mediation programs, and other community organizations across the state. Services include day of trial mediation, pre-trial mediation referrals, peace order mediation, and settlement conference facilitation. In addition, the District Court ADR Office has created pretrial mediation programs for more complex "special set" cases. Volunteers receive continuing education and recognition by the court.

In Fiscal Year 2004, the District Court did the following work in the realm of ADR:

Chief Judge James Vaughan created a new District Court standing committee on ADR, Chaired by Judge Martha Rasin.

The District Court's ADR Office provided ongoing administration of mediation and settlement facilitation programs across the state, with top priority this year given to training and quality assurance. It engaged more than 300 volunteers statewide and provided them with ongoing assistance, education, recognition and quality assurance.

The District Court ADR Office launched a new effort with community mediation centers accessing the court's computerized on-line docket for referrals prior to trial.

The District Court ADR Office piloted ADR programs for special set cases

The District Court ADR Office coordinated an internship program to help handle its increased workload.

The District Court ADR Office and Training Unit trained District Court personnel in ADR awareness, and trained ADR volunteers in peace order mediation, settlement facilitation, mediation skills development, and cultural diversity.

### **Community Mediation**

Community Mediation is an important resource for the court, providing vital conflict resolution services at the neighborhood level, preventing violence and addressing the underlying causes of conflict in a manner that cannot be achieved in a courtroom. Community mediation programs provide free services to the District Court, do outreach and conflict resolution education in the community, and also accept walk-ins and referrals from police, prosecutors, schools, social service agencies and others. They build effective working relationships with local government and community service organizations, and are on the front lines making a difference every day in our neighborhoods.

MACRO works closely with a non-profit 501(c)3 organization called the Maryland Association for Community Mediation (MACMC), which helps strengthen existing community mediation centers and create new centers throughout the state. In collaboration with MACMC, MACRO operates an innovative performance-based funding model that rewards centers for increasing their outreach efforts, intake services and number of

mediations. Since MACRO began supporting community mediation, the number of jurisdictions served by community mediation centers has increased from eight to 17 statewide, and service levels have increased dramatically, with statewide performance measures more than doubling within recent years. In addition, MACRO provides start-up support to help create new centers in areas not yet served by community mediation. All centers operate in conformance with a detailed, nine-point grassroots community mediation model adopted by the ADR Commission.

To ensure long-term financial viability, MACRO continually encourages community mediation programs to diversify their funding sources, generating additional support through grants, contracts, private foundations and individual donors. To assist in their efforts, in Fiscal Year 2004, MACRO partnered with the University of Maryland Center on Aging to train retired executives, or "Legacy Leaders," in mediation and non-profit fund raising skills. Each program graduate commits to providing a significant amount of volunteer service to a community mediation center. As an additional fund-raising incentive, MACRO is phasing in matching fund requirements and leveraged approximately \$498,000 in matching funds during Fiscal Year 2004.

With support from MACRO and the Hewlett Foundation, MACMC is collaborating with centers statewide on an important research project designed to measure the impact and quality of community mediation services in Maryland. Led by MACMC's Director of Research and Training, Lorig Charkoudian, Ph.D., this

research will have results that are expected to be of great benefit to community mediation nationally, as well as to the wider ADR community. MACMC also provides ongoing high quality training for volunteer community mediators statewide.

In Fiscal Year 2004, in addition to supporting the Legacy Leadership Fund Raising Institute, MACRO helped:

\*Support and expand 13 community mediation centers in Anne Arundel, Baltimore, Carroll, Frederick, Harford, Montgomery, Prince George's, St. Mary's, Washington, and Wicomico Counties, as well as the Upper Shore region and Baltimore City and Rockville

\*Create a new community mediation center in Charles County

\*Support community mediation association to offer training, evaluation, research networking, advocacy and resource development statewide.

### **Schools and Universities**

MACRO supports the development and expansion of effective peer mediation and other conflict resolution projects in schools and universities. MACRO works in partnership with the Maryland State Department of Education and the University of Maryland School of Law Center for Dispute Resolution to support small and innovative school-based conflict resolution grant program. The program makes contact with every school in Maryland to offer assistance annually. Now, in its second year, the program is supporting twenty innovative



school-based initiatives, each receiving modest funding support and ongoing technical assistance from a UM Clinical Law student. As this program evolves, MACRO anticipates creating a renewed emphasis on peacemaking in Maryland schools.

In higher education, recent MACRO projects have included supporting startup of a peer mediation program at Salisbury University, as well as assistance in Salisbury's efforts to develop a post-graduate program in dispute resolution and a speakers' series on peacemaking in the community. MACRO also has recently formed a partnership with Salisbury University's Conflict Resolution Center to provide ongoing outside evaluation and research services to assess outcomes associated with court ADR program developments statewide. MACRO supports a field service program at the University of Maryland School of Social Work, a conflict resolution curriculum development initiative at the University of Maryland School of Nursing, and a health care industry ADR initiative at the University of Maryland School of Law.

Projects that MACRO supported in Fiscal Year 2004 include:

\*A conference on ADR in Higher Education, organized by the Center for ADR, which is planning a Fall 2004 Conference on K-12 conflict resolution

\*The Baltimore City Midtown Academy Elementary School's peacemaking, community-building, and peer mediation initiative

\*The Baltimore City Canton Middle School's new PAR program (Johns Hopkins University's Participation Action &

Responsibility program)

\*The Howard County Reservoir High School's replication of the successful Frederick High School "Connections" program

\*The Howard County Swansfield Elementary School's new after-school program on conflict resolution

\*Morgan State University's new pilot peer mediation program in its women's residence hall

\*Salisbury University Conflict Resolution Center's significant mediation research and evaluation projects on court ADR programs statewide

\*The University of Maryland School of Social Work's mediation and conflict resolution skills training for field placement students, in partnership with the Southeast Community Association, for neighborhood-based mediation, peacemaking and conflict resolution

### ***Criminal/Juvenile Justice***

Mediation and other conflict resolution processes in the areas of criminal and juvenile justice help address underlying conflicts and prevent disputes from escalating or recurring. MACRO has supported a wide range of new mediation programs at State's Attorneys' Offices in rural, urban and suburban jurisdictions. Programs include the use of in-house mediators and/or mediation screeners, as well as connections with community mediation centers and efforts to build mediation into case processing. The programs primarily focus on diverting many citizens' complaints summons

docket cases into mediation.

In addition, MACRO supports the ongoing work of the Community Conferencing Center, a statewide organization, whose mission is to resolve juvenile justice matters and multi-party conflicts. With MACRO's help, several community mediation programs also are beginning to offer community conferencing services. Community conferencing is a successful community-based diversion for juvenile misdemeanor crimes that strengthens existing community assets by involving everyone affected by an incident in deciding how best to repair the harm and prevent future occurrences, while helping juveniles and their families access community-based services. The conferencing model also is effective for resolving large scale neighborhood conflicts and other multi-party disputes. In Fiscal Year 2004 MACRO leveraged \$100,000 in Department of Juvenile Services funds to support a new partnership with MACRO and the Community Conferencing Center.

In addition, MACRO offered Fiscal Year 2004 assistance for:

\*The African Immigrants and Refugee's Foundation, which is creating a Council of Elders to resolve disputes within the African immigrant community, in partnership with the Conflict Resolution Center of Montgomery County

\*The Baltimore County Police Department to expand its mediation program for criminal and community complaints

\*The Baltimore City School Police, to train resource officers, to launch a new community-based mediation ambassadors program, and to

expand dispute resolution and community building work in high-risk middle schools

\*The Baltimore City State's Attorney's Office, to partner with the City's Community Mediation Program for mediation of criminal summons docket cases

\*The Community Conferencing Center, to coordinate and expand community conferencing activities statewide

\*The Dorchester County State's Attorney's Office, to launch a new mediation program using an in-house neutral

\*The Mediation and Conflict Resolution Center at Howard Community College for regional restorative justice workshops throughout Maryland

\*The Prince George's County State's Attorneys Office, to run a mediation referral program in partnership with the Prince George's County Community Mediation Board

\*The Maryland Transition Center, to pilot a pre-release inmate training in conflict resolution and life skills at the Baltimore City Correctional Center

### **State/Local Government**

In the realm of government dispute resolution projects, MACRO works in close collaboration with the Attorney General's Office, state agencies and local officials. MACRO also receives advice and evaluation support from a multi-agency government ADR committee. MACRO has supported numerous collaborative problem-solving

processes, while also helping government agencies to train staff in effective conflict management and to identify possible uses of mediation. As an arm of the Judiciary, MACRO does not advise executive agencies about when to use ADR. Instead, MACRO seeks to assist agencies in efforts they identify as appropriate for ADR use, while also providing resources and technical support needed to help them explore possibilities in this field. MACRO has sponsored 40-hour mediation training programs at the Office of Administrative Hearings for Administrative Law Judges and staff, as well as for Assistant Attorneys General and Executive Branch agency personnel. In addition, MACRO has supported training at the Attorney General's Office in advanced negotiation and in effectively representing government clients in mediation. Most recently, MACRO staff have begun conducting short, customized training programs for government agency staff on such topics as dealing with angry citizens, workplace conflict management, and mediation awareness.

In Fiscal Year 2004 MACRO offered assistance to:

\*The Maryland Commission on Human Relations, to provide volunteer mediators with advanced training and continuing education

\*A program to train and mentor a group of Maryland's advanced mediators to provide public policy dispute facilitation training and to mentor Maryland mediators in facilitating complex multi-party cases

\*The Maryland Department of Agriculture, to develop conflict

resolution tools to resolve issues between farmers and seasonal farm workers on the Eastern Shore

\*The Maryland Department of Natural Resources, to train tributary strategy staff in collaboration and conflict resolution skills and connect them with community mediation centers, and to provide facilitation services to complete the tributary strategies document in collaboration with multiple stakeholders

\*The Baltimore City Department of Planning, to train community planners in public policy facilitation, and to retain outside neutrals for complex land use disputes

\*The Governor's Office of Children, Youth and Families, to collaboratively design decision-making and conflict resolution protocols to avoid and resolve disputes over resources for multi-problem "stuck kids," whose needs overlap the missions of several agencies, and to train Local Coordinating Councils (LCCs) in conflict management and training community mediators to mediate LCC cases at impasse

\*The Maryland Department of Health and Mental Hygiene, to coordinate an Eastern Shore Collaborative to collaboratively design protocols for agencies serving dual diagnosis patients with retardation and mental illness

\*The University of Maryland Cooperative Extension Center, to plan conflict management retreat for agriculture officials on emergency response teams

\*The University of Maryland Institute for Governmental Service,

to create a conflict management curriculum for local elected officials

\*The Maryland State Police, to create a workplace conflict resolution program

\*The City of Frederick, to create a citizen advocate/ombuds position to intervene in conflicts involving city agencies

\*The Prince George's County Human Relations Commission, to expand ADR programs for discrimination cases

\*The Judiciary's Administrative Office of the Courts (AOC), to train staff in conflict resolution skills, and to propose an ombuds program for workplace conflict management

\*The University of Maryland School of Nursing, to developing online curriculum and training for students and faculty

### **A National Leader**

With Chief Judge Bell's vision and leadership, MACRO has established Maryland as a national leader in the field of conflict resolution, as well as a model for other states and even a few foreign governments just starting ADR programs. MACRO's work has been featured prominently at numerous national ADR events and acknowledged with major awards from the American Bar Association, the Association for Conflict Resolution, and the CPR Institute for Dispute Resolution.

MACRO also has built a strong working relationship with mediation advocates in Scotland,

many of whom participated in a two-day mediation study visit to Maryland. Subsequently, with a grant from the Royal Bank of Scotland, the Scottish Mediation Network flew Chief Judge Bell, MACRO Executive Director Rachel Wohl and Deputy Executive Director Lou Gieszl to Scotland to participate in the first-ever Scottish Mediation Conference, as well as other site visits, meetings and speaking engagements. Ruth Wishart, a Scottish broadcast journalist and Patron of the Scottish Mediation Network, after her visit to Maryland, eloquently expressed the importance of ADR in our courts:

*"Self evidently, there are areas where only the courts can usefully intervene, and that will always be the case. But, as the Maryland experience has underlined, there are huge trenches of human activity scarred by conflict where an adversarial route can only exacerbate the problem.*

*If instead, each party has a means of articulating their pain and their concern, and has that testimony heard and respected, a huge amount of impotent anger can be syphoned out. If a solution is hammered out on the basis of interpersonal negotiation, rather than on tablets of judicial stone, then neither party is likely to feel the sense of injured loss often engendered in a system only geared to winners and losers."*

### **Rules Committee**

Under Article IV, Section 18 (a) of the Maryland Constitution, the

Court of Appeals is empowered to regulate and revise the practice and procedure in, and the judicial administration of, the courts of this State; and under Annotated Code of Maryland, Courts and Judicial Proceedings Article, §13-301 the Court of Appeals may appoint "a standing committee of lawyers, judges, and other persons competent in judicial practice, procedure or administration" to assist the Court in the exercise of its rule-making power. The Standing Committee on Rules of Practice and Procedure, often referred to simply as the Rules Committee, was originally appointed in 1946 to succeed an *ad hoc* Committee on Rules of Practice and Procedure created in 1940. Its members meet regularly to consider proposed amendments and additions to the Maryland Rules of Practice and Procedure and submit recommendations for change to the Court of Appeals.

Minutes of the meetings of the Rules Committee from 1997 to the present and the text of the most recent rules changes proposed by the Committee and Rules Orders entered by the Court of Appeals are available through the Maryland Judiciary's website at [www.courts.state.md.us/rules](http://www.courts.state.md.us/rules).

In addition to developing proposed new rules and amendments to existing rules, the Rules Committee and its staff maintain rules history archives; provide research assistance to judges, lawyers, and other who have rules history questions; and participate in educational programs involving the Maryland Rules of Practice and Procedure.

***The Standing Committee on Rules of Practice and Procedure***

**Hon. Joseph F. Murphy, Jr., Chair, Chief Judge, Court of Special Appeals  
Linda M. Schuett, Esquire, Vice Chair, Anne Arundel County Bar**

F. Vernon Boozer, Esquire  
*Baltimore County Bar*

Timothy F. Maloney, Esquire  
*Prince George's County Bar*

Lowell R. Bowen, Esquire  
*Baltimore City Bar*

Hon. John F. McAuliffe  
*Court of Appeals (retired); Emeritus*

Prof. Robert R. Bowie  
*Talbot County Bar; Emeritus*

Robert R. Michael, Esquire  
*Montgomery County Bar*

Albert D. Brault, Esquire  
*Montgomery County Bar*

Hon. William D. Missouri  
*Circuit Court for Prince George's County*

Robert L. Dean, Esquire  
*Prince George's County Bar*

Hon. John L. Norton, III  
*District Court, Dorchester County*

Hon. James W. Dryden  
*District Court, Anne Arundel County*

Anne C. Ogletree, Esquire  
*Caroline County Bar*

Hon. Ellen M. Heller  
*Circuit Court for Baltimore City (retired)*

Debbie L. Potter, Esquire  
*Anne Arundel County Bar*

Hon. G. R. Hovey Johnson  
*Circuit Court for Prince George's County (retired); Emeritus*

Larry W. Shipley  
*Clerk, Circuit Court for Carroll County*

Harry S. Johnson, Esquire  
*Baltimore City Bar*

Twilah S. Shipley, Esquire  
*Baltimore City Bar*

Hon. Joseph H. H. Kaplan  
*Circuit Court for Baltimore City; Emeritus*

Norman R. Stone, Jr., Esquire  
*State Senator, Baltimore County*

Hon. Richard M. Karceski, Esquire  
*Baltimore County Bar*

Melvin J. Sykes, Esquire  
*Baltimore City Bar*

Robert D. Klein, Esquire  
*Anne Arundel County Bar*

Joseph F. Vallario, Jr., Esquire  
*State Delegate, Prince George's County*

J. Brooks Leahy, Esquire  
*Carroll County Bar*

Robert A. Zamoch, Esquire  
*Assistant Attorney General*

Sandra F. Haines, Esquire, *Reporter*  
Sherie B. Libber, Esquire, *Assistant Reporter*

## Definitions

## DEFINITIONS

### **Adoption/Guardianship**

This includes all civil adoptions and guardianships including regular adoptions, guardianship with right to adoption, and guardianship with right to consent to long-term care short of adoption. Guardianship of incompetents are reported in "Other General".

### **Adult**

A person who is 18 years old or older charged with an offense relating to juveniles to be heard in Juvenile Court (See § 3-831 of Courts and Judicial Proceedings Article.)

### **Appeal**

The resorting to a higher court to review, rehear, or retry a decision of a tribunal below. This includes appeals to the circuit court, the Court of Special Appeals, and the Court of Appeals.

Appeals to the circuit courts include:

1. Record - The judge's review of a written or electronic recording of the proceedings in the District Court.
2. De Novo - The retrial of an entire case initially tried in the District Court.
3. Administrative Agency - appeals from decisions rendered by administrative agencies. For example:

- Department of Personnel
- County Commissioner
- Department of Taxation and Assessments
- Employment Security

- Funeral Director
- Liquor License Commissioners
- Physical Therapy
- State Comptroller (Sales Tax, etc.)
- State Motor Vehicle Authority
- Supervisors of Elections
- Workmen's Compensation Commission
- Zoning Appeals
- Any other administrative body from which an appeal is authorized.

### **Application for Leave to Appeal**

Procedural method by which a petitioner seeks leave of the Court of Special Appeals to grant an appeal. When it is granted, the matter addressed is transferred to the direct appeal docket of the Court for customary briefing and argument. Maryland statutes and Rules of Procedure permit applications in matters dealing with post conviction, inmate grievances, appeals from final judgment following guilty plea, and denial of or grant of excessive bail in habeas corpus proceedings.

### **Case**

A matter having a unique docket number; includes original and reopened (post judgment) matters.

### **Caseload**

The total number of cases filed or pending with a court during a specific period of time. Cases may include all categories of matters (civil-general, civil-family, juvenile, and criminal).

### **C.I.N.A. (Child in Need of Assistance)**

Refers to a child who needs the assistance of the court because:

1. The child is mentally handicapped or
2. Is not receiving ordinary and proper care and attention, and
3. The parents, guardian, or custodian are unable or unwilling to give proper care and attention.

### **C.I.N.S. (Child in Need of Supervision)**

Refers to a child who requires guidance, treatment, or rehabilitation because of habitual truancy, ungovernableness, or behavior that would endanger himself or others. Also included in this category is the commission of an offense applicable only to children.

### **Condemnation**

The process by which property of a private owner is taken for public use without the owner's consent but upon the award and payment of just compensation.

### **Contested Confessed Judgment**

The act of a debtor in permitting judgment to be entered by a creditor immediately upon filing of a written statement by the creditor to the court.

### **Contracts**

A case involving a dispute over oral or written agreements between two or more parties.

Breaches of verbal or written contracts.

Landlord/tenant appeals from District Court.

### ***Delinquency***

Commission of an act by a juvenile which would be a crime if committed by an adult.

### ***Disposition***

Entry of final judgment in a case.

### ***District Court - Contested***

Only applies to civil, a case that has gone to trial and both parties (plaintiff and defendant) appear.

### ***District Court Criminal Case***

Single defendant charged per single incident. It may include multiple charges arising from the same incident.

### ***District Court Filing***

The initiation of an action or case in the District Court.

### ***Divorce, Nullity***

A proceeding to dissolve a marriage. Original filings under this category include divorce a vinculo matrimonii, divorce a mensa et thoro, and annulment. A reopened case under this category includes hearings held after final decree or other termination in the original case. A reopened case may involve review of matters other than the divorce itself as long as the original case was a divorce. (Examples of the latter may be a contempt proceeding for nonpayment of support, noncompliance with

custody agreement, modification of support, custody, etc.)

### ***Docket***

Formal record of court proceedings.

### ***Filing***

Formal commencement of a judicial proceeding by submitting the necessary papers pertaining to it. Original filing under one docket number and subsequent reopenings under the same number are counted as separate filings.

### ***Fiscal Year***

The period of time from July 1 of one year through June 30 of the next. For example: July 1, 2002 to June 30, 2003.

### ***Hearings***

Criminal - Any activity occurring in the courtroom, or in the judge's chambers on the record and/or in the presence of a clerk, is considered a hearing, except trials or any hearing that does not involve a defendant.

### ***Examples of Hearings in Criminal***

- Arraignment
- Discovery motion
- Guilty plea
- Motion to quash
- Motion to dismiss
- Motion for change of venue
- Motion to continue
- Motion to suppress
- Motion to sever
- Nolo contendere
- Not guilty with agreed statement of facts
- Sentence modifications
- Violation of probation

Civil - A presentation either before a judge or before a master empowered to make recommendations, on the record or in the presence of a clerk or court reporter, for purposes other than final determination of the facts of the case. Electronic recording equipment, for definition purposes, is the equivalent to the presence of a court reporter.

### ***Examples of Hearings in Civil***

- Motion to compel an answer to an interrogatory
- Motion ne recipiatur
- Motion for judgment by default
- Demurrer
- Motion for summary judgment
- Motion to vacate, open, or modify confession of judgment
- Preliminary motions presented in court, including motions for continuance
- Determination of alimony pendente lite, temporary custody, etc., in divorce case
- Contempt or modification hearings
- Juvenile-A presentation before a judge, master, or examiner on the record in the presence of a clerk or court reporter. Electronic recording equipment, for definition purposes, is the equivalent to the presence of a court reporter.

### ***Examples of Hearings in Juvenile***

- Preliminary motions presented in court
- Arraignment or preliminary inquiry
- Detention (if after filing of petition)
- Merits or adjudication
- Disposition
- Restitution
- Waiver
- Review
- Violation of probation

**Indictment**

The product of a grand jury proceeding against an individual.

**Information**

Written accusation of a crime prepared by the State’s Attorney’s Office.

**Jury Trial Prayer-Motor Vehicle**

A request for trial by jury in the circuit court for a traffic charge normally heard in the District Court. To pray a jury trial in a motor vehicle case, the sentence must be for more than six months.

**Jury Trial Prayer-Other (Criminal)**

A request for a trial by jury in the circuit court for charges normally heard in the District Court, except traffic charges or nonsupport.

**Miscellaneous Docket**

Established and maintained primarily as a method of recording and identifying those preliminary proceedings or collateral matters before the Court of Appeals other than direct appeals.

**Motor Torts**

Personal injury and property damage cases resulting from automobile accidents. (This does not include boats, lawn mowers, etc., nor does it include consent cases settled out of court.)

**Motor Vehicle Appeals**

An appeal of a District Court verdict in a traffic charge.

**Nolle Prosequi**

A formal entry upon the record by the plaintiff in a civil suit, or the State’s Attorney in a criminal case, to no longer prosecute the case.

**Nonsupport**

A criminal case involving the charge of nonsupport.

**Original Filing**

See “Filing”.

**Other Appeals (Criminal)**

An appeal of a District Court verdict except one arising from a traffic charge or nonsupport.

**Other Domestic Relations**

Matters related to the family other than divorce, guardianship, adoption, or paternity. Examples of this category include support custody, and U.R.E.S.A. cases.

**Other General**

This category includes, among other things, injunctions, change of name, foreclosure, and guardianship of incompetent persons.

**Other Law**

This category includes, among other things, conversion, detinue, ejectment, issues from Orphans’ Court, attachments on original process, and mandamus.

**Other Torts**

Personal injury and property damage cases resulting from: Assault and battery-an unlawful

force to inflict bodily injury upon another.

Certain attachments.

Consent tort.

False imprisonment-the plaintiff is confined within boundaries fixed by the defendant for some period of time.

Libel and slander - a defamation of character.

Malicious prosecution-without just cause an injury was done to somebody through the means of a legal court proceeding.

Negligence-any conduct falling below the standards established by law for the protection of others from unreasonable risk of harm.

**Paternity**

A suit to determine fatherhood responsibility of a child born out of wedlock.

**Pending Case**

Case in which no final disposition has occurred.

**Post Conviction**

Proceeding instituted to set aside a conviction or to correct a sentence that was unlawfully imposed.

**Reopened Filing**

The first hearing held on a case after a final judgment on the original matters has been entered.

**Stet**

Proceedings, are stayed; one of



the ways a case may be terminated.

**Termination**

Same as “Disposition”.

**Trials**

• **Criminal**

Court Trial-A contested hearing on the facts of the case to decide the guilt or innocence of the defendant where one or more witnesses has been sworn.

Jury Trial-A contested hearing on the facts of the case to decide the guilt or innocence of the defendant, where the jury has been sworn.

• **Civil**

Court Trial-A contested hearing on any one or all merits of the case, presided over by a judge, to decide in favor of either party where testimony is given by one or more persons. Note: “Merits” is defined as all pleadings prayed by the plaintiff in the original petition

that created the case. Divorce, custody, child support, etc., are examples that might be considered merits in a civil case.

Jury Trial-A contested hearing on the facts of the case to decide in favor of either party where the jury has been sworn.

**Unreported Category**

A case that has been reported but not specifically identified as to case type by the reporting court.