

LAURA S. RIPKEN  
CIRCUIT ADMINISTRATIVE JUDGE  
FIFTH JUDICIAL CIRCUIT  
CHAIR  
(410) 222-1290

KEITH A. BAYNES  
CIRCUIT ADMINISTRATIVE JUDGE  
SECOND JUDICIAL CIRCUIT  
VICE CHAIR  
(410) 996-5317



FAYE D. GASKIN  
SECRETARY  
P: (410) 260-1257  
F: (410) 974-2066

**Conference of Circuit Judges**  
COURTS OF APPEAL BUILDING  
ANNAPOLIS, MD 21401

**MINUTES OF THE MEETING OF THE  
CONFERENCE OF CIRCUIT JUDGES**

A meeting of the Conference of Circuit Judges was held Monday, May 20, 2019, at the Judicial College Education and Conference Center in Annapolis, Maryland, beginning at 9:30 a.m.

**Members Present**

Hon. Laura S. Ripken, Chair

Hon. Brett W. Wilson  
Hon. Keith A. Baynes, Vice Chair  
Hon. Stephen H. Kehoe  
Hon. Yolanda L. Curtin  
Hon. Kathleen Gallogly Cox  
Hon. Viki M. Pauler  
Hon. William V. Tucker  
Hon. Robert A. Greenberg

Hon. Julie S. Solt  
Hon. Sheila R. Tillerson Adams  
Hon. Donine M. Carrington Martin  
Hon. Audrey J. S. Carrion  
Hon. W. Michel Pierson  
Hon. Timothy W. Miller  
Matthew Barrett  
Pamela Harris

**Also, Present Were:**

Hon. John P. Morrissey  
Magistrate Wendy Schenker  
Faye Gaskin  
Warren Hedges

Carla Jones  
Jeffrey Luomo  
Eliana Pangelinan  
Stacey Saunders

**1. Approval of Minutes**

Judge Ripken called for approval of the minutes of the March 18, 2019, meeting. Judge Kehoe moved for approval of the minutes, which was seconded by Judge Adams. The motion passed.

## **2. Magistrates Conference**

Magistrate Wendy Schneker briefed the Conference on the upcoming Magistrates' Educational Conference, scheduled for September 24, 2019, at the Judicial College Education and Conference Center. She thanked the administrative judges for encouraging the magistrates in their courts to attend the inaugural conference in 2018. After conducting a survey to ascertain feedback from those who attended, the work group agreed that the conference format should not be changed. There will, however, be more tailored breakout sessions.

The proposed topic of the conference is communication with Marcus Stallworth, LMSW, serving as the morning plenary speaker. It is planned that Mr. Stallworth will focus on how youth communicate through social media, exploring the different types of social media they use and why, as well as the impact of social media on emotional health and developmental growth, and the risks associated with social media. Mr. Stallworth's honorarium is \$1,500, which includes the plenary and a breakout session.

Delegate Kathleen Dumais will provide a legislative update and there will be kiosks available during lunch for MD Rock, the digital library, and the online parenting class. Topics under consideration for the afternoon breakout sessions include media literacy and critical thinking, ethical issues, evidentiary issues, implicit bias, generational communication issues, and the difference between neuropsychological and psychological evaluations, among others.

Judge Ripken moved for approval of the plenary speaker. Following a second by Judge Adams, the motion passed.

Magistrate Schneker stated that she will forward the final agenda to Judge Ripken and attend the November meeting to report on the Magistrates' Educational Conference.

## **3. Sexual Harassment Training**

Warren Hedges, Fair Practices Officer, provided a summary of the mandated sexual harassment prevention training, noting that House Bill 1423, which was passed by the General Assembly during its 2018 session, mandates that all State employees complete at least two hours of training on sexual harassment prevention. The mandate in the bill applies to all three branches of government; there are no exceptions for elected or appointed officials. Mr. Hedges added that the training has to be completed within six months after the employee's initial appointment and then every two years thereafter. The training can be face-to-face or online.

The Fair Practices Department, in collaboration with the Judicial College and the Government Relations and Public Affairs Division has built an interactive, online course for the Judiciary. The training is divided into four 30-minute segments that will provide an overview of harassment laws, preventing harassment and unwanted advances, preventing other forms of harassment such as jokes and touching, and stopping offensive behavior, as well as comments concerning sexual orientation and gender identity. Participants do not have to complete all segments at one time. The training will be rolled out gradually to manage the large numbers.

Discussion ensued regarding requirements for county-funded Judicial Branch employees to complete the training. Mr. Hedges stated that the administrative judge determines whether the

employees in his or her court will participate in the training. Mr. Hedges noted, however, that the Judiciary's harassment policy applies to county-funded employees and, as such, it would be advantageous to have consistent training. The policy currently is under review to add a provision regarding the training, including its applicability.

In response to several questions, Mr. Hedges noted that law clerks are required to take the training and that the training contains a section on how to report suspected harassment. Additionally, there are segments in the New Employee Orientation training that address harassment, which will provide general information while the employee waits to take the comprehensive training.

#### **4. Juvenile Restitution Orders**

Jeffrey Luoma, Legal Affairs Department, briefed the Conference on a concern raised by the Department of Juvenile Services (DJS) regarding restitution orders where the judge directs that the obligation cannot be referred to the Central Collection Unit (CCU) without further action by the court. DJS believes requiring the matter to come back before the judge before referring the obligation to CCU is not in alignment with the law.

Mr. Luoma stated that Criminal Procedure Article § 11-616 indicates that DJS or the Department of Public Safety or Correctional Services *may* refer an overdue account to CCU but *shall* refer the overdue account if probation is terminated. He added that courts, however, have broad discretion and that the agency has to consider the court order.

Judge Ripken commented that there should be some level of consistency in practice and asked that the Conference members determine what is happening in each of their respective jurisdictions for discussion at the next meeting.

#### **5. Mandatory Coursework for New Judges and Magistrates**

Stacey Saunders appeared before the Conference to discuss the mandatory ethics course for new judges and magistrates, specifically the fact that approximately 25 percent of the new judges and magistrates are not completing the course in a timely manner. In 2017, Chief Judge Barbara mandated that all new judges and magistrates are to complete the course within 30 days of their appointment, which means that the course should be completed prior to them sitting on the bench. The three-hour online course was finalized and went live in 2018. In addition to the ethics course, all new judges and magistrates are required to complete the fair practices online course within the same timeframe. If a judge is elevated to another court level, he or she only has to take the ethics course.

Ms. Saunders noted that if the courses are not completed in a timely manner, the judge or magistrate receives a letter indicating that the courses must be completed. Copies are sent to Chief Judge Barbera, the administrative judge, the chair of the Conference of Circuit Judges, and Pamela Harris. She stated that she uses the email addresses provided to Judicial Human Resources, which is not necessarily a Judiciary email because the judge or magistrate would not have started at that point. Ms. Saunders will forward to the county administrative judges the email sent from Chief Judge Barbera to all new judges and magistrates advising them of the requirement to complete the training. She indicated that she also can include the training links

but noted that they will have to be registered to access the training. The Judicial College registers each new judge.

## **6. Judicial Assistant Proficiency Based Education and Training Program**

Ms. Saunders discussed the Judicial Assistant Proficiency Based Education and Training Program, explaining that proficiency-based education is *practice*, not *interest*-based; it is based on the core skills and knowledge needed to do perform the job. The judicial assistant job classification is one of six groups for which proficiency-based education is being, or has been, developed.

The training, which was developed with the assistance of a work group of judicial assistants (subject matter experts), is scheduled to go live in 2019. The work group has been in place since 2016. The foundational training cuts across court levels and, as such, is applicable to judicial assistants in all courts. Except for one face-to-face session, all the training is online with no segment lasting more than 15 minutes. The work group anticipates that it should take a new judicial assistant no longer than six months to complete the program, which includes 12 modules with a total of 45 lessons. It is recommended that all judicial assistants complete the program to create a foundation of consistency, understanding, and best practices.

After Conference members exchanged viewpoints on whether the program should be mandatory for all judicial assistants and expressing the pros and cons thereof, Judge Pierson moved that all judicial assistants should complete the proficiency-based education. Following a second by Judge Adams, the motion passed. Judge Cox then moved that the program should be completed within six months. Following a second by Judge Carrion, the motion passed.

Judge Ripken stated that the message should be communicated to each county administrative judge. The communication should come from Chief Judge Barbera or Ms. Saunders and should be sent in mid to late Fall.

## **7. Partial Expungements**

Chief Judge Morrissey, Ms. Harris, and Carla Jones briefed the Conference on an issue that was raised during an MDEC Advisory Board meeting wherein some judges are ordering “partial” expungements when there is no statutory authority to do so. Further, complying with the order is problematic for clerks and the Department of Public Safety and Correctional Services is not able to perform “partial” expungements, which is the expungement of a single charge from a case that has more than one charge. The Judiciary’s systems are case-based, not charge-based. Moreover, there are still multiple systems used to manage cases in the Judiciary, further complicating the matter. Until MDEC is fully-implemented and CaseSearch is rewritten, the Judiciary will not be able to perform partial expungements. The Conference was asked to discuss the matter with their respective benches and advise judges not to order “partial” expungements.

Chief Judge Morrissey briefly touched upon shielding, stating that judges are ordering that entire cases be shielded. Only what is requested to be shielded, i.e., address, should be shielded, not the entire case.

## **8. Deficiency Notices**

Chief Judge Morrissey, Ms. Harris, and Ms. Jones discussed the *State Court Administrator's Policy on Deficiencies and Strikings for Clerks* in light of some issues that have surfaced. It appears that clerks are handling deficiencies differently from court-to-court. The Major Projects Committee is trying to provide training and procedures, along with the policy to ensure as much consistency as possible. It is preferred that the policy be followed rather than local rules or administrative orders.

Ms. Jones noted that there appears to be a lot of confusion because interpretation of the policy varies. As a result, the MDEC team is fielding a great deal of complaints from attorneys about the variations from court-to-court. The plan is to re-educate the clerks to get more consistency, which will lead to a level of predictability for attorneys.

Chief Judge Morrissey stated that the policy was developed in collaboration with the clerks and that the attorneys have a companion document. He added that monthly email blasts are sent to registered attorneys regarding best practices.

Judge Cox commented that the biggest area of inconsistency seems to be determining what constitutes multiple submissions in civil cases. Some counties are very narrowly interpreting the Rule, while others aren't sure how to address the matter. She suggested that maybe providing more examples would be helpful. Judge Cox noted that there also is inconsistency regarding when a deficiency is corrected and whether the envelope has to be referenced. Ms. Jones responded that attorneys are advised to reference the envelope number because the clerks have to relate the documents.

## **9. Work Group on Emergency Evaluation Procedures for After Hours**

Judge Greenberg briefed the Conference on the findings of the Work Group on Emergency Evaluation Procedures for After Hours. He stated that Emergency Evaluation Petitions (EEPs) may be filed by health care professionals, law enforcement, or lay persons. There is no requirement to have an in-person hearing, which is the general practice. A survey of the courts indicated that the procedure varies from court-to-court and that there is no desire to impose a uniform process. The courts have established processes that best work for their circumstances.

The consensus of the work group is that a uniform statewide system is not necessary and would be logistical and financially difficult to implement. Chief Judge Morrissey echoed that sentiment, adding that the current processes, albeit varied, appear to be working well.

Judge Ripken thanked the work group for their efforts and agreed that there is no need for a uniform process or policy.

Judge Ripken stated that she conducted an informal poll to determine how after-hours petitions for emergency evaluations are handled from jurisdiction-to-jurisdiction. She found that most courts do not handle the petitions, but rather defer to law enforcement. The larger jurisdictions have duty judges who handle the petitions in some way, which varies from court to

court. Judge Ripken expressed concern about what is permitted in the Rules with respect to how the petitions are handled, and whether more formality is needed or required.

Judge Pierson commented that there has to be agreement between the District and Circuit Courts because how one court handles the petitions impacts the other. Chief Judge Morrissey noted that the procedure is handled at the local level and determined by the administrative judge. He added that it varies with law enforcement handling the after-hour petitions in some locations. Discussion ensued with the Conference concluding that the disparities are concerning. Judge Pierson noted that Baltimore City's problem is peculiar because law enforcement refuses to do anything and tells everyone to contact the duty judge. Because of the number of petitions filed each night, Baltimore City handles them remotely.

Concerned about the degree of variation and the lack of a clearly-defined process, the Conference agreed to form a work group to review the various procedures and to formulate recommendations, remaining mindful that not all jurisdictions function in the same manner and that the processes in place may be working. It was suggested that it be a joint work group with the District Court. Chief Judge Morrissey will provide the names of two judges and a commissioner. Judge Greenberg will chair the work group and Judges Carrington, Cox, and Pierson will serve as members.

## 10. Resolution

Judge Ripken presented Clerk Miller with a resolution of appreciation for his contributions to the Conference and judicial administration as he prepares to retire.

### Action Items

- Conference members should survey the courts in their circuits to determine how they handle juvenile restitution orders for discussion at the September meeting.

There being no further business, the meeting was adjourned at 11:45 a.m. The next meeting will be held on Monday, September 16, 2019, at the Judicial College Education and Conference Center in Annapolis, Maryland. It will be a joint meeting with the District Court administrative judges. All county administrative judges will be invited to the meeting, which will begin at 9:30 a.m.

Respectfully submitted,



Faye D. Gaskin  
Conference Secretary