

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



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

AUDREY J. S. CARRIÓN
CIRCUIT ADMINISTRATIVE JUDGE
EIGHTH JUDICIAL CIRCUIT
VICE-CHAIR
(410) 396-5130

Conference of Circuit Judges

MARYLAND JUDICIAL CENTER
187 HARRY S. TRUMAN PARKWAY
ANNAPOLIS, MD 21401

MINUTES OF THE MEETING OF THE CONFERENCE OF CIRCUIT JUDGES

A meeting of the Conference of Circuit Judges was held Monday, January 25, 2021, via Zoom for Government, beginning at 9:30 a.m.

Members Present

Hon. Keith A. Baynes, Chair

Hon. Audrey J. S. Carrion, Vice Chair
Hon. Sheila R. Tillerson Adams
Hon. Angela M. Eaves
Marina Fevola
Hon. Jeffrey S. Getty
Hon. Robert A. Greenberg
Hon. Katherine Hager
Pamela Harris
Hon. Fred S. Hecker

Hon. Ruth A. Jakubowski
Hon. Stephen H. Kehoe
Hon. Donine Carrington Martin
Hon. William C. Mulford
Hon. Viki M. Pauler
Hon. Richard Sandy
Hon. Brian D. Shockley
Hon. Barry G. Williams
Hon. Brett W. Wilson

Also, Present Were:

Hon. John P. Morrissey
Faye Gaskin
Keith Bageant
Gray Barton
Lou Gieszl

Cynthia Jurrius
Marti Robinson
Eliana Pangelinan
Jamie Walter

1. Welcome and Approval of Minutes

Judge Baynes welcomed everyone and acknowledged the new members, Judges Eaves, Hecker, Jakubowski, Mulford, and Sandy, Clerk Katherine Hager, and Marina Fevola. He then called for approval of the minutes of the November 16, 2020 meeting, which were approved by general consent.

2. Grant-Funded Positions Work Group

Lou Gieszl presented the final report of the Grant-Funded Positions Work Group of the Court Operations Committee. The work group was formed to follow-up on one of the recommendations of the Courthouse Equity Subcommittee, which was to address salary equity issues in positions funded through Judiciary grants. The work group reviewed salary information and job descriptions of grant-funded employees, compiled information on how each court handles state-funded cost-of-living adjustments and merit increases authorized during the grant process, reviewed state-level classification and compensation information, and held informational sessions with the Conference of Circuit Court Administrators.

Through its review and discussions, the work group formulated several recommendations, many of which focus on information sharing and communications. The seven recommendations are:

- a. Court administrators should follow local HR processes to classify, and when warranted reclassify, positions outlined in the Judiciary's General Grant Conditions.
- b. Court administrators should use grant application and grant modification processes to request additional funding when positions are reclassified.
- c. AOC should make clear to grantees that budgeted amounts for positions can be changed through a budget modification process when needed due to salary reclassification, turnover, a change in an employee's life circumstances, or budget reductions.
- d. AOC should provide to court administrators information about established minimum, midpoint, and maximum salary amounts for state positions that may be comparable to certain grant-funded positions, including but not limited to Problem-Solving Court Coordinators and Case Managers.
- e. AOC should identify core grant-funded positions – those present in all or most courts statewide – and the market minimums/maximums for those positions and track annually the extent to which these employees are or are not up to at least market minimum pay.
- f. AOC should notify grant applicants during the grant review process if it appears that they have a position that may be being compensated at below market minimum pay.
- g. AOC should direct communications about merits, COLAs, and other salary adjustments to court administrators instead of circuit court employees.

Mr. Gieszl noted that the report was provided as informational and to solicit the Conference's support as necessary.

3. BJA Grant Proposal – Risk Assessment Tool

Gray Barton briefed the Conference on a Bureau of Justice Assistance Fiscal Year 2021 Adult Drug Court and Veterans Treatment Court Discretionary Grant Program opportunity the Office of Problem-Solving Courts is interested in pursuing. There are four categories to the grant, the first three for individual jurisdictions. Mr. Barton discussed the fourth category, which is for statewide strategies to support adult drug courts and veterans' treatment courts. The grant is for four years, beginning October 1, 2021, for up to \$1.5 million with a 25% cash or in-kind match over the four years. Part 1 of the grant proposal addresses funding for the planning and

implementation of a new case management system for problem-solving courts to replace SMART. The new system would provide for better integration with justice partners and enable more significant outcome performance analysis.

The second part of the grant, and the component for which Mr. Gray was seeking feedback, addresses funding for the acquisition and application of a risk/need screening tool that would be made available to all District and Circuit Court locations after completion and evaluation of a pilot in three to six locations of varying size. Mr. Barton stated that the goal is to utilize the tool as close to when the defendant touches the judicial system as possible. The selected tool will emphasize the identification of substance abuse and mental health treatment needs, although it will assess criminogenic risk and clinical treatment needs. The goal is to expand usage beyond referrals to problem-solving courts to a more diverse population of criminal offender, permitting greater access to treatment early on. An additional goal is to increase the number and diversity of referrals to drug and veterans' courts. Use of a tool can potentially mitigate the impact of implicit bias in determining which individuals receive an assessment and referral to services. It is anticipated that the screening will be conducted by consultants to lessen the burden on court staff. At the end of the grant period, the Judiciary would have to assume the cost of funding the consultants.

The Office of Problem-Solving Courts will conduct an evaluation at the conclusion of the pilot to determine if there are positive outcomes associated with the risk/assessment tool.

Judge Getty asked how the tool would differ from the RANT risk/needs tool to which Mr. Barton responded that it would not but stressed that a specific tool is not being identified as there will have to be a competitive procurement process. There are some drug courts that are currently using a risk/needs assessment tool, so the goal is to expand usage to all problem-solving courts. Mr. Barton emphasized that the thinking is that if the court can assess to the defendant's needs earlier in his or her interaction with the judicial system, the court is able to make more-informed decisions.

Judge Hecker inquired as to the application of the tool outside of problem-solving courts for 8-505 or 8-507 recommendations. Mr. Barton stated that the tool can be used beyond problem-solving courts to do screening for placement or treatment, but they can only be used in jurisdictions that have an adult or veterans court treatment court program. If there is a problem-solving court in one trial court in the jurisdiction, the tool can be used by the other court, but there should be collaboration between the two courts.

Ms. Harris remarked that there have been issues with assessment tools across the country and inquired as to the questions contained within the tool. Mr. Barton noted that most tools are proprietary and, as such, the questions are not shared without a confidentiality agreement. He added that Office of Problem-Solving Courts would ensure the tool is validated and fits Maryland's population. He is confident that the tools currently utilized by the courts in their problem-solving programs are effective.

Chief Judge Morrissey expressed concerns with using a risks/needs assessment tool, citing experience with a previous tool that only addressed risks. He added that he is concerned

when it is stated that the tool is vetted against the agency's own data because if there is bias in the data, there still would be bias in the outcome. He is more interested in assessing needs.

Judge Baynes asked for a joint work group of District and Circuit Court judges to work with Mr. Barton to review the proposal and address any issues or concerns before submitting the proposal which is due in March. The following names were submitted: Judges Getty, Mahoney, Friedman, Baynes, and Mason. Chief Judge Morrissey will provide the names of District Court judges for the work group.

4. Prefiling of Trial Exhibits

Clerk Hager raised an issue concerning the timing of pre-filing of trial exhibits. With the increase in remote hearings, the clerks have noted an increase in the number of pre-filed exhibits. The concern is that there is no mandated deadline by which the exhibits must be filed, and the clerks often get them the night before or even the day of the proceeding, which makes timely processing difficult. The Conference of Circuit Court Clerks was seeking the Conference's guidance and support in seeking a Rule change to mandate a deadline and to bring about consistency. Clerk Hager noted that some courts have issued administrative orders outlining the timeframes, but attorneys may not be aware of the different deadlines if they practice in multiple jurisdictions.

The Conference of Circuit Court Clerks recommended that Rule 20-106(b) be amended to require pre-filed exhibits be filed three business days before the proceeding. The Remote Hearings Bench Book recommends two days, but the clerks feel that three days provides an adequate amount of time to process.

Discussion ensued with comments primarily centered around the need for flexibility because not all situations are the same, nor does every jurisdiction or trial court level operate in the same manner. For that reason, the Remote Hearings Workgroup decided to include language recommending rather than mandating a timeframe. The Conference also expressed concerns with a statewide Rule that affects a judge's discretion. Judge Sandy noted that having mandatory language is counter to the opinion in the Court of Special Appeals case, *A.A. v. AB.D.* Judge Carrion noted that attorneys and parties alike usually react to deadlines and suggested that maybe there could be language to the effect that they should be filed no later than or as required by the court, which would give the trial judge discretion to handle individual cases as he or she deems appropriate and also would provide some direction/guidance to the litigants. The Conference acknowledged the difficulties experienced by the clerks in this matter.

It was agreed that the Conference of Circuit Court Clerks should seek guidance from its Assistant Attorney General as this is a ministerial function.

5. Executive Session

Judge Baynes noted that there was a matter that needed to be discussed by the Conference that required the members to go into executive session. Judge Kehoe moved that the

Conference go into executive session. Following a second by Judge Williams, the motion passed. Judge Baynes asked all attendees who were not members of the Conference to leave the meeting.

Following the executive session, the meeting ended at 10:45 a.m. The next meeting is scheduled for Monday, March 15, 2021, via Zoom for Government, beginning 9:30 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Faye Gaskin". The signature is written in a cursive style with a large, sweeping initial "F".

Faye Gaskin
Conference Secretary