



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

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

Hon. Nathan Braverman
Baltimore City District Court

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

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

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

Hon. Susan H. Hazlett
Harford County District Court

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

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

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

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

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

Hon. Barbara Waxman
Baltimore City District Court

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

Hon. Eugene Wolfe
Montgomery County District Court

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

Pamela Harris
State Court Administrator

Jennifer Keiser, Vice-Chair
Conference of Court Administrators

Carol Llewellyn-Jones,
Administrative Clerk
District Court

Judy Lohman, Administrative Clerk
District Court

Sally Rankin, Chair
Conference of Circuit Court
Administrators

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

Roberta Warnken, Chief Clerk
District Court

Faye Matthews, Secretary
(410) 260-1257

MARYLAND JUDICIAL COUNCIL

Maryland Judicial Center
580 Taylor Avenue
Annapolis, MD 21401

Meeting Minutes September 16, 2015

Judicial Council Members Present:

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

Hon. Alan M. Wilner
Hon. Eugene Wolfe
Pamela Harris
Carol Llewellyn-Jones
Hon. Sharon Hancock
Jennifer Keiser
Judy Lohman
Sally W. Rankin
Hon. Wayne Robey
Roberta Warnken

Others Present:

Hon. Michael J. Stamm
Hon. E. Gregory Wells
Hon. Gary G. Everngam
Faye Matthews
Lou Gieszl
Melinda Jensen
Jamie Walter
Jonathan Rosenthal
Patricia Tummer
Dennis Scott
Lee Robinson

Timothy Haven
Tracy Watkins-Tribbitt
Connie Kratovil-Lavelle
Gregory Hilton
Alan Wiener
Hope Gary
Dominique Johnigan
Lisa Gangli
Angelita Plemmer-Williams
Lynne Wheeler

A meeting of the Judicial Council was held Wednesday, September 16, 2015, at the Judiciary Education and Conference Center, beginning 9:30 a.m. Chief Judge Barbera began the meeting by welcoming everyone and then called for approval of the minutes of the previous meeting.

Judge Waxman moved for approval of the minutes of the August 19, 2015 meeting, followed by a second to the motion by Judge Hazlett. The motion passed.

1. **Human Capital Management (HCM) – CONNECT Update**

Patricia Tummer, Judiciary Human Resources, briefed the Council on the CONNECT project, which is the back-office system for Judiciary Human Resources. In addition to managing human resources transactions through CONNECT, users will be able to register for and track training and educational programs offered by the Judiciary. Ms. Tummer stated that training specifically geared toward judges, active and recalled, is being developed. She emphasized that active judges will only have to provide leave information, including requests, approvals, and usage. CONNECT project staff will work with court staff to determine the approval process for judges' leave in each jurisdiction to determine the appropriate workflow. In addition, the project team is finalizing system requirements to permit court staff access to CONNECT. Ms. Harris noted that the Court Technology Committee, along with JIS, will explore the implications of bringing the entire Judiciary onto one email platform. Doing so would improve the ease with which communications can be widely disseminated, as well as address some of the access issues resulting from the multiple platforms.

When implemented, CONNECT will not completely interface with all executive branch agencies. As such, users either will have to contact those agencies directly to make changes regarding retirement and benefits or contact Judiciary Human Resources for assistance in providing information to the appropriate agency.

2. **Differentiated Case Management and Maryland Judicial Workload Assessment**

Jamie Walter, Court Operations Department, briefed the Council on two initiatives under the purview of the Court Operations Committee – the Maryland Judiciary Workload Assessment and the Differentiated Case Management Technical Assistance projects. The Maryland Judiciary Workload Assessment initiative, under the direction of the National Center for State Courts (the Center), will update the models used to certify the need for additional trial court judges. The Center also will gather information to develop a model to certify the need for magistrates and will provide a means to determine whether a judge or magistrate would more appropriately address the need. The project will include a time study that includes case, as well as non-case-related work for judges and magistrates. The effort will be guided by a Judicial Needs Assessment Workgroup comprised of judicial officers from across the State.

Judge Adams suggested that the Center consider programs such as problem-solving courts, in addition to case types because of the judicial time and attention required to manage cases in those programs. Ms. Rankin added that the Center should consider the responsibilities of administrative judges and the impact on judicial need.

The second initiative, Differentiated Case Management Technical Assistance, will be

facilitated by the Justice Management Institute (JMI). JMI will develop a template or guide that comprises the major factors to consider in effective case management in the trial courts. There will be separate templates to account for court size and major case type. The project team is enlisting the assistance of workgroups comprised of judges, clerks, court administrators, and administrative clerks to assist in this endeavor. In addition to the template, JMI will provide technical assistance to four trial courts in the development of their DCM plans.

3. **Court Operations Committee Update**

Judge Wells updated the Council on the work of the Court Operations Committee, specifically the Forms Subcommittee. He commented that the District Court is a forms-driven court and that it has an extensive process in place for forms development and modification. There is no counterpart in the circuit courts. The Forms Subcommittee, in an attempt to add structure to and ensure that the circuit court is included in the forms review process, submitted two sets of recommendations, one to expand the organizational structure of the subcommittees and the other to develop a uniform forms review process.

With respect to the expansion of the organizational structure, the following recommendations were submitted:

1. Add circuit court judges to the Criminal and Traffic Workgroup and the Civil and Domestic Workgroup of the District Court Chief Judge's Committee.
2. Add subject matter expert members to the Forms Subcommittee.
3. Add a Landlord/Tenant Workgroup to the District Court Chief Judge's Committee.
4. Add an Orphans' Court Subcommittee and possible workgroup to the Domestic Law Committee.
5. In the future, add a Veteran's Court Workgroup to the Mental Health Subcommittee.

Recommendations regarding the uniform forms review process are as follow:

1. *Legislative Mark-Up Day.* The chairperson or designee of the appropriate committee or subcommittee will receive and review the forms prior to the Legislative Mark-Up Day and then attend the mark-up day to provide subject matter expertise. Any edits or revisions subsequent to legislative mark-up day will be reviewed by the Forms Subcommittee and posted. All high usage forms will be forwarded to the Access to Justice Department within the Administrative Office of the Courts for translation into Spanish, French, and Russian. Forms changes will be done by the Administrative Services Unit within District Court Headquarters.
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2. *New and/or Revised Form Requests (online and paper)*. The language regarding the use of local forms will be revised as follows: *The use of local forms is limited. A local form is generated by the Forms Subcommittee only if there is no existing Judiciary form that reasonably meets the needs of the requested form.* Requests for new or revised forms will be sent to the Forms Subcommittee who will notify the requestor within 30 days of the decision – granted, denied, or modified. If granted or modified, online forms will be posted within 90 days and paper forms will be available within 8-12 weeks. If denied, the requestor will be provided a reason for the denial.
3. *Create a Depository for Forms Review*. A draft of forms created or revised will be prepared by the Administrative Services Unit in collaboration with the Forms Subcommittee. The draft will be sent electronically to the appropriate committee, subcommittee, workgroup, and the entire Judiciary for review. All suggested edits will be documented on the discussion board on CourtNet until the deadline period, at which time they will be removed and archived.
3. *Forms Subcommittee and Administrative Services*. The Forms Subcommittee will review the suggested edits and the Administrative Services Unit will make the appropriate revisions. Forms Directives will be created and posted on CourtNet explaining the revisions, effective date, and usage instructions. High usage forms will be sent to the Access to Justice Department for translation into Spanish, Russian, and French.
4. *Judicial Council Directive*. A Judicial Council Directive will be created that explains the revision process, as well as the policy on the use of local forms.

Judge Wells noted that the Forms Subcommittee recommended a schedule for the periodic review of all Judiciary forms every five years by form type.

Judge Wilner commented that forms is an area where there is some overlap with the Rules Committee because of the forms it mandates. He cautioned that the Forms Subcommittee ensure revisions to the forms are not inconsistent with the forms mandated by the Rules. In addition, the Forms Subcommittee and the Rules Committee should collaborate when legislation requires implementation by Rule to ensure that the respective forms contain the necessary information.

Ms. Warnken suggested that the recommended time period for paper forms be changed to 10-14 weeks to provide sufficient time to make the revisions and for the procurement process. Judge Cox stated that adding an Orphans' Court Subcommittee to the Domestic Law Committee would substantially expand its scope and further that its work is not within the Committee's purview. She suggested, as an alternative, that a workgroup be formed under the Court Operations Committee to address the topical areas articulated in the recommendation, with the

exception of guardianship which already is being addressed by the Domestic Law Committee. Those areas include trusts and estates, bankruptcy, and foreclosure.

Discussion ensued around the recommended policy regarding local forms. It was noted that there are internal local practices that may necessitate the creation of a form. It was suggested that prohibiting such forms has the potential to adversely impact operations. Some forms, such as those generated as the result of the court's DCM plan, may not have statewide applicability. Judge Wells responded that the main concern being addressed by the recommendation centers around forms developed for public use, not those generated by the court.

Ms. Harris moved for approval of Recommendation Numbers 1, 2, 3, and 5 regarding expansion of the organizational structure. Following a second by Judge Adams, the motion passed.

With respect to the recommendations regarding the uniform forms review process, Judge Cox moved for approval of Recommendation Numbers 1, 2, 3, and 4, excluding any reference to local forms and amending the time period for implementing new paper forms from 8-12 weeks to 10-14 weeks. Following a second by Judges Hazlett, the motion passed.

Judge Wells will advise the Forms Subcommittee of the concerns articulated by the Council, particularly as they relate to local forms.

4. **Juvenile Law Committee Update**

Judge Stamm provided an update on the work of the Juvenile Law Committee. He stated that the Committee is working on a number of initiatives involving juvenile justice and foster care, including juvenile court waivers, juvenile justice risk assessment tools, reducing racial and ethnic disparity, juvenile expungement, representation resources, kinship care, safe haven legislation, and CANDO. Judge Stamm further stated that a number of issues were addressed by changing the format of the CANDO conference, which now will include a day focused on juvenile justice.

Among the initiatives highlighted by Judge Stamm were the formation of a workgroup to develop uniform procedures for processing juvenile expungement petitions, as well as the work being done by staff from the Foster Care Court Improvement Program to explore ways to expand resources on the Eastern Shore and in Western Maryland to parents involved in CINA and related TPR matters. In addition, legislation has been submitted to the Legislative Committee to clarify the Maryland Safe Haven statute, as well as legislation to bring Maryland in compliance with federal laws surrounding sex trafficking.

Judge Stamm reported that at Chief Judge Barbera's request, the Juvenile Law Committee reviewed a resolution *Regarding Shackling of Children in Juvenile Court* promulgated by the National Council on Juvenile and Family Court Judges (NCJFCJ). In addition to reviewing the resolution, the Juvenile Law Committee researched the practice of shackling juveniles in Maryland courts. Judge Stamm noted that approximately half of the jurisdictions adhere to the protocol established by the Department of Juvenile Services (DJS), which involves shackling along with other restraints while transporting juveniles, but removing the restraints once the juvenile is in the courtroom, at the judge's discretion. Responses from other jurisdictions varied from the Sheriff being responsible for the juvenile and removing all restraints once in the courtroom to leaving the restraints on the entire time.

The Juvenile Law Committee recommended supporting the NCJFCJ resolution as it relates to practices within the courtroom, but noted that practices while the juvenile is being transported are the discretion of the DJS or the law enforcement agency responsible for security. The Committee's recommendation is that the juvenile be unshackled once in the courtroom unless there is a security concern.

Judge Wilner noted that a workgroup of the Rules Committee, comprising juvenile justice stakeholders, has been working on a complete revision of the juvenile rules and has drafted a proposed rule that addresses the shackling issue and will result in a uniform policy when the juvenile is in the courtroom.

Judge Cox suggested that, if adopted, the language in the resolution should be clarified to indicate unshackling in the *courtroom* as opposed to the *court*. Judge Debelius noted that every facility is different and that there may be logistical issues, particularly if juveniles are shackled together. He added that the judge would have to start with the presumption that the juvenile is unshackled unless the Sheriff indicates otherwise for security reasons.

Judge Wilner commented that proceedings conducted by magistrates have to be considered as well, noting that many of them do not have a courtroom, per se. In reviewing the juvenile rules, the Rules Committee considered the impact of unshackling in a traditional courtroom versus in a magistrate hearing room that can be substantially smaller.

Judge Adams stated that the recommendation is broad enough, but suggested that it be taken a step further to require coordination with the Sheriff to determine his or her policy regarding additional deputies in the courtroom in certain situations.

Judge Cox noted that the policy should be clear that it applies to judges and magistrates.

Judge Mason moved for adoption of the resolution with the amendments to change court

to courtroom and to include magistrates. Following a second by Judge Debelius, the motion passed.

Judge Stamm will ensure that the necessary changes are made to the resolution for adoption and implementation.

5. **Retired and Recalled Judges Committee Update**

Judge Kenney provided an update on the work of the Retired and Recalled Judges Committee. He noted that the attendance policy adopted for Judicial Institute programs did not include a provision for recalled judges to submit attendance materials. It was determined that the materials will be submitted to Judiciary Human Resources who will forward the information to the Chief Judge of the Court of Appeals. Judge Kenney asked if there could be an area set up at the Joint Bench Bar Conference where retired and recalled judges can obtain pertinent information. Judge Mason commented on the superior caliber of recalled judges.

6. **Law Clerk Concerns**

Ms. Harris stated that Chief Judge Barbera issued an administrative order on the Utilization of Law Clerks, which requires law clerks to assist recalled judges. It also provides for 80 hours of leave for law clerks during their term year. There were a number of questions received from judges and law clerks resulting from the administrative order that have been addressed. Ms. Harris asked the Council to contact her should they have any concerns.

7. **Strategic Plan Update**

Ms. Harris distributed an updated copy of the strategic plan checklist, which provided a status of the various strategic initiatives. She stated that staff are developing an annual report that will highlight the accomplishments over the last year. Ms. Harris asked that updates to the strategic initiatives outlined in the checklist, as well as other initiatives on which the committees or courts are working in furtherance of the Judiciary's mission be provided to Lou Gieszl for inclusion in the annual report.

8. **For the Good of the Order**

Judge Adams raised a concern about the lack of security screening at some commissioner stations and the impact on safety. Timothy Haven, Executive Director of Commissioners, responded that providing screening at each of the 40 stations across the State would require approximately five bailiffs at each location with a 24/7 schedule. He noted that the Court has worked to provide physical barriers between the commissioners and the individuals

before them and that the intent is to make the barriers bullet proof or bullet resistant. Mr. Haven added that all of the commissioner stations are in non-screened areas except those located in courthouses. In those locations, the screening is only done on weekdays until 4:30 p.m. Judge Braverman commented that the concern extends beyond commissioners because judges and other staff are in those locations from time to time as well.

Chief Judge Morrissey stated that the lack of screening at commissioner stations is a large issue and that there are a number of improvements needed, many of which have to be part of the capital budget. Structural impediments at some facilities limit the ability to provide screening.

Judge Adams requested that the Forms Subcommittee review the Civil Case Information Form and consider adding another section to address equity cases.

Judge Adams then inquired as to whether the Judiciary will once again offer home security assessments to judges. Ms. Harris stated that the matter should be referred to the Court Operations Committee. Judge Waxman noted that there is a protocol in place in Baltimore City for the judges of both trial courts that involves the Sheriff, local law enforcement, and Homeland Security. Judge Adams stated that Prince George's County also has a protocol in place, but wanted to know if the Judiciary should look at the issue globally.

Chief Judge Barbera stated that there have been a number of articles published recently regarding issues around structured settlements. The matter was referred to the Conference of Circuit Judges and the Rules Committee for review and recommendation. Chief Judge Barbera commended Judge Adams and Judge Wilner on the job they did working with the reporter on this matter. She asked that media questions regarding structured settlements be referred to the Office of Communications and Public Affairs. The Judiciary will work on developing best practices for dealing with structured settlements.

Action Items

- Judiciary Human Resources will develop a training plan for CONNECT for judges.
- The Forms Subcommittee will reconsider its recommendation regarding local forms.

There being no further business, the meeting adjourned at 11:58 a.m. The next meeting is scheduled for October 21, 2015, beginning 9:30 a.m.

Respectfully submitted,



Faye Matthews
