



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

Hon. Susan Braniecki, Chair
Conference of Circuit Court Clerks

Hon. Pamila J. Brown
Howard County District Court

Tamera Chester, Administrative Clerk
District Court

Hon. Kathleen Gallogly Cox, Chair
Conference of Circuit Judges

Hon. Amy J. Craig, Vice- Chair
Conference of Circuit Court Clerks

Pamela Harris
State Court Administrator

Hon. Susan H. Hazlett
Harford County District Court

Doug Hofstedt, Vice- Chair
Conference of Court Administrators

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

Hon. Laura S. Kiessling, Vice-Chair
Conference of Circuit Judges

Hon. Karen H. Mason
Circuit Court for Prince George's County

Hon. Patricia L. Mitchell
Montgomery County District Court

Hon. John P. Morrissey, Chief Judge
District Court

Robert Prender, Administrative Clerk
District Court

Hon. W. Michel Pierson
Circuit Court for Baltimore City

Hon. Gerald V. Purnell
Worcester County District Court

Timothy H. Sheridan, Chair
Conference of Circuit Court Administrators

Roberta Warnken, Chief Clerk
District Court

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

Hon. Brett W. Wilson
Circuit Court for Dorchester County

Hon. Patrick L. Woodward, Chief Judge
Court of Special Appeals

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MARYLAND JUDICIAL COUNCIL

Meeting Location:
Judiciary College Education and Conference Center
Upper Level 4 & 5

MARYLAND JUDICIAL COUNCIL Minutes November 21, 2017

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair	Hon. Alan M. Wilner
Hon. Pamila J. Brown	Hon. Brett W. Wilson
Hon. Kathleen Gallogly Cox	Hon. Patrick L. Woodward
Hon. Susan H. Hazlett	Hon. Susan Braniecki
Hon. James A. Kenney, III	Tamera Chester
Hon. Laura S. Kiessling	Hon. Amy J. Craig
Hon. Karen H. Mason	Pamela Harris
Hon. Patricia L. Mitchell	Douglas Hofstedt
Hon. John P. Morrissey	Robert Prender
Hon. W. Michel Pierson	Timothy Sheridan
Hon. Gerald V. Purnell	Roberta L. Warnken

Others Present:

Hon. Gary G. Everngam	Sarah Kaplan
Hon. Lawrence P. Fletcher-Hill	Pamela Ortiz
Hon. Larnzell Martin	Eliana Pangelinan
Hon. E. Gregory Wells	Suzanne Pelz
Faye Gaskin	Arthur Pham
Matthew Barrett	Jonathan Rosenthal
Mark Bittner	Stacey Saunders
Lou Gieszl	Suzanne Schneider
Abigail Hill	Jamie Walter
Jeffrey Huddleston	

A meeting of the Judicial Council was held Tuesday, November 21, 2017, at the Judiciary College Education and Conference Center, beginning 9:30 a.m. Chief Judge Barbera welcomed everyone to the meeting. She then called for approval of the minutes of the previous meeting, which were approved by common consent.

1. Report of the Joint Workgroup on Human Trafficking

Abigail Hill presented the report of the Joint Workgroup on Human Trafficking in Judge Waxman's absence. Ms. Hill began her presentation by commenting on the pervasiveness of the human trafficking epidemic and its effect on communities across, not only the state, but the country as well. She noted that the group, Protected Innocence, conducts a comprehensive assessment on each state's response to human trafficking and offers a corresponding grade. Maryland's grade improved from an "F" in 2011 to a "B" in 2017.

Ms. Hill highlighted a number of initiatives undertaken during the year, including two judicial education programs, one that provided an introduction to human trafficking and the other that addressed the trauma associated with human trafficking, including how it affects the victim's demeanor in the courtroom, strategies for recognizing survivors, and how judges can approach the cases and deal with the survivors. Both of the programs focused on sex trafficking. The workgroup also worked on bench cards and other resource materials, suspending the work for a brief period to ensure everything was in line with judicial ethics.

The workgroup, as part of a multidisciplinary coalition funded by a Department of Justice grant, continued work on the curriculum for a three-hour web-based sex-trafficking education program for all judges and magistrates. In addition to the online program, the project also includes the development of written materials and in-person programs.

Ms. Hill stated that there were sufficient funds to enable the work group to create materials for a labor trafficking component. She added that while the nationwide focus on labor trafficking is still in its infancy, the problem is significant and the workgroup is turning its attention to that area. The workgroup, through its research and discussions with advocacy groups, learned that labor trafficking cases are difficult to prosecute because of a lack of robust statutes, a lack of resources allocated to that area, and difficulty investigating reports of violations because the trafficking generally occurs in homes and farms on private property. Ms. Hill added that Maryland does not have a labor trafficking statute.

Chief Judge Barbera commended the work group for reaching out to the Ethics Committee for guidance in the form of the unpublished opinion before getting too far along. Judge Mitchell stated that the workgroup was concerned about the questions that could be asked during the proceedings, particularly with the possibility that the trafficker may be sitting in the courtroom. The workgroup felt that the judge might be perceived as being in an advocacy role and the members weren't sure how the process would be perceived by the attorneys. Judge Mitchell noted that the ethics opinion was very helpful.

Chief Judge Barbera informed the Council that the National Center for State Courts had chosen the Maryland Initiative on Human Trafficking to be included in an article in its Upcoming Trends, which helps companion states learn what's happening in other states. Ms. Hill reported that several work group members will travel to California in February for the National Association for Court Management's Midyear Conference to present on the Judiciary's human trafficking initiatives. The presentation will be done in conjunction with juvenile judges from Orange County. She added that the conference will provide an opportunity for work group members to get additional information that possibly can be used in Maryland's efforts.

Lou Gieszl stated that Judge Waxman asked him to extend her apology for not being able to attend the meeting and to thank Chief Judge Barbera for allowing her to chair the workgroup. She also wanted to thank Ms. Hill for her hard work in this endeavor, adding that Ms. Hill has put her heart and soul into the project.

Ms. Hill stated that the workgroup was requesting approval for extension of the workgroup, either with its present composition or with a group of judges to continue the work and ongoing projects. Judge Brown moved that the workgroup, with its existing members, be given the opportunity to continue its work. Judge Mitchell seconded the motion. Chief Judge Barbera offered a friendly amendment that the workgroup be extended for an additional year, until December 2018, and that it be housed within the overarching mission of the Education Committee. The friendly amendment was accepted and the motion passed.

Chief Judge Barbera thanked Ms. Hill, Judge Waxman, and the workgroup for their work in this very important area.

2. Committee Updates

Court Operations Committee. Judge Wells introduced Judge Fletcher-Hill, chair of the Jury Use and Management Subcommittee, stating that the subcommittee continued the work of the previous committee on a comprehensive manual for jury commissioners and jury offices. Judge Fletcher-Hill thanked Sarah Kaplan for her hard work on the manual. He stated that the manual is intended to be a resource for jury commissioners and staff; it does not make policy or law. The two primary functions of the proposed manual are to inform jury staff on how the jury operates within the larger court operation and to provide information on the practicalities of administering jury programs. Judge Fletcher-Hill commented on the diversity of jury operations across the state and indicated that the subcommittee would like to work toward more uniformity. He added that if the manual is approved, the subcommittee would like to have the flexibility to modify as necessary.

Chief Judge Barbera stated that compiling the manual was a massive project and that many Council members had not had the opportunity to adequately review the manual and, as such, approving it at this time would be difficult. She stated that based on the variations across the state, the subcommittee members undoubtedly had many discussions on issues to reach conclusions and asked if all of the jury commissioners were given an opportunity to comment and to which Judge Fletcher-Hill responded in the affirmative. Chief Judge Barbera asked the Council to review the manual and to be prepared to discuss it at the next meeting. She asked that the members contact Judge Fletcher-Hill with questions and/or comments.

Judge Wells then discussed the work of the Case Management Subcommittee, noting that the members have been active in two areas – reviewing the case assessment report, including more than forty requests for changes to the case time standards and reviewing the differentiated case management plans from the trial courts. The subcommittee is developing a system to evaluate changes to the plans.

The Courthouse Equity Subcommittee, whose overarching goal is to ensure equity with regard to grant funding for services, programs, and security in the Circuit Courts, has focused some of its attention on grant-funded positions, as well as developing a quantitative model to be

used as a tool to assist in ensuring equitable distribution of funding.

The Forms Subcommittee worked diligently to create more than two dozen forms resulting from legislative changes. In addition, the subcommittee developed guidelines for reviewing forms and created two workgroups to assist with the review process, one for each trial court.

The Joint Subcommittee on Communication and Access to Judicial Information implemented the Data Dashboard, which provides statistics online, both in data and graphical form for all four court levels. The information is monitored by the Court Operations Department.

The Records Retention Workgroup completed its final draft of the revised Records Retention Schedule, which will be presented to the Council at its January meeting.

The Expungement Subcommittee will present its draft expungement manual to the Court Operations Committee at its next meeting. After any necessary changes are made, the manual will be presented to the Council for approval.

Court Technology Committee. Judge Everngam briefed the Council on the work of the Court Technology Committee. He reported that Judge Wilner has worked with the committee to gather information to assist in the drafting of rules regarding legislation that allows the Judiciary to publish electronic opinions from the appellate courts. He stated that eighteen states had moved to an electronic format for publishing opinions and rules. Judge Everngam will meet with the clerks of both appellate courts to discuss the business process to ensure authenticity of the published opinions. Recommendations of the same will be forthcoming to the Council. Judge Wilner stated that the draft rules refer to the statutes that deal with the reports, but do not mention the citations. He added that there is a provision in the Maryland Constitution that requires the legislature to provide for a reporting system for the appellate courts for the publication of reported opinions. A Constitutional amendment may be required if the rules changes impact citations.

The Video Conferencing Subcommittee continued to work with county IT departments to develop an integrated video-conferencing system across the Judiciary. The Rules Committee is reviewing rules to expand the use of video conferencing in court proceedings.

The CaseSearch/Data Request Subcommittee completed its review of remote access and drafted its report. The Major Projects Executive Steering Committee will review the report and provide feedback prior to presenting the recommendations to the Council.

Upcoming committee initiatives include implementation of a Security Awareness Program that will assist participants in protecting data in their personal as well as professional lives and the update of the MDEC manual to incorporate rules changes, as well as any changes to the State Court Administrator's policies.

Matthew Barrett then reported on the work of the Email Retention Workgroup. He stated that in two consecutive years, legislation was introduced outside of the Judiciary addressing a retention period for email, seven years in 2016 and one year in 2017. The legislation did not pass, but the Court Technology Committee decided it was important to address the issue and

formulate recommendations for Judiciary email. Through its research, the workgroup determined that six jurisdictions utilize their county email systems; however, Frederick County has begun the process to transition to the Judiciary's email domain (mdcourts.gov).

The workgroup formulated three primary recommendations for consideration: 1) retention of email for one year even if deleted by the user; 2) automated deletion of email older than 12 months unless intentionally preserved by the user to ensure that unnecessary emails are purged from the system to comport with the retention period; and 3) transition of all courts and Judicial Branch employees to the Judiciary's email domain to permit uniform application of email retention and deletion policies.

Mr. Barrett stated that the work group was seeking approval of the third recommendation at this time, noting that the cost to secure licenses to move individuals to the Judiciary's email platform is \$250 per person annually. He added that JIS will have to work with the counties to reach agreement to switch over and, as such, it is difficult to provide an accurate timeline for implementation. Judge Kiessling noted that her court is anxious to move onto the Judiciary's system although there has been some resistance from parts of the courthouse. Chief Judge Barbera stressed the importance of one Judiciary and stated that the costs should be absorbed in order to move forward.

Judge Hazlett moved for approval for the work group to move forward with transitioning the courts, where applicable, from county email systems to the Judiciary's email system. Following a second by Judge Cox, the motion passed.

Jeffrey Huddleston then briefed the Council regarding JIS' support of the Judiciary's strategic plan. He highlighted and provided status updates on a number of projects that relate directly to the Judiciary's goal to *Improve Systems*. They include MDEC, the Attorney Information System, e-Recording, and Virtual Desktop Infrastructure. The Security Awareness and Education initiative was associated with the goal to *Be Accountable* and the Data Center Redesign/Upgrade project with the goal to *Assure the Highest Level of Service*. Mr. Huddleston commented that before JIS moves forward with any initiative, its strategic plan that comports with the Judiciary's overarching strategic plan, is reviewed to ensure that the initiative is in alignment.

At the conclusion of the report of the Court Technology Committee, Chief Judge Barbera announced the impending retirement of Mark Bittner and expressed her gratitude and appreciation for his contributions to the Judiciary and called for acclamation from the Council. Mr. Bittner stated that he was humbled and blessed to have worked with such wonderful people, the Council, and the committees. He expressed his appreciation for everyone's support.

Court Access and Community Relations Committee. Judge Martin briefed the Council on the work of the Court Access and Community Relations Committee. He stated that the committee really is a conduit for the work done by the Access to Justice Department, the Communications Department, and the District Court. Judge Martin also stated that it was great working with the members of the committee and the subcommittees.

The Community Relations Subcommittee publishes the Judges Gazette and also is continuing to explore ways to ensure the Judiciary communicates effectively. The subcommittee

has developed material to assist with expansion of the Speakers Bureau and is working on a marketing program to encourage judges to participate.

The Language Access Subcommittee has worked to improve data collection for interpreters through the inclusion of all invoices in GEARS. In addition, the subcommittee published the Fiscal Year 2017 Annual Report: Language Services in the Maryland Courts, noting a significant increase in demand in Prince George's County. Other initiatives include developing an interpreter complaint protocol as a means to obtain feedback; providing remote ASL laptops to clerks, commissioners, and self-help centers; and continuing to work on a technological solution with the vendor for video remote interpreting. The subcommittee also proposed a rule and appendix to simplify *voir dire* with respect to interpreters.

The Self-Represented Litigant Subcommittee created on a number of topics, such as filing for absolute divorce, filing a failure to pay rent case, facing eviction in a failure to pay rent case with additional webinars being developed. Other efforts to assist self-represented litigants include placing transit ads on buses and chat buttons on court websites, creating MVA Network and Court TV ads, and presenting a proposal to the Legislative Committee that would waive fees for service by the Sheriff if the filing fees are waived. The subcommittee also worked with the Tenant Volunteer Lawyer of the Day Program through which a coordinating attorney and *pro bono* attorneys provide day-of-court representation at the Baltimore City District Court in failure to pay rent cases. Another initiative was the development of judges' referral pads with resource information that judges provide to litigants.

The Accessibility and Accommodations Subcommittee, which is a new subcommittee, was established to develop initiatives to enhance access to the courts for persons with disabilities.

Judge Martin articulated a number of committee goals for the upcoming year. Amongst them are to develop goals for the new Accessibility and Accommodations Subcommittee, release three rent court videos and additional video content, evaluate the Maryland Courts Self-Help Center, and successfully implement the VRI pilot.

Chief Judge Barbera noted that Pamela Ortiz was asked to submit an article on Developing a Research Agenda for Access to Justice for the National Center for State Courts' Trends 2018 publication.

District Court Chief Judge's Committee. Chief Judge Morrissey discussed the composition of the committee, which includes the District Administrative Judges, judges that represent the various regions of the State, a senior judge representative, the chairs of the two work groups, the Chief Clerk, the Executive Director of Commissioners, the Executive Director of District Court ADR, and a District Administrative Clerk representative. The committee meets quarterly and works from an agenda that is derived from the various issues that may arise. The primary purpose of the committee is to discuss common issues and to develop best practices for the District Court.

Among the topics discussed at the committee's July meeting and highlighted by Chief Judge Morrissey were the ADR Rent Court pilot that transitioned to a permanent program and is expanding to other jurisdictions; changes on the incompetency form; a discussion reminding

judges to review defendant lists for proper pre-trial detention; a reminder to administrative judges regarding the requirement for fingerprinting for certain convictions; a discussion regarding the authority and liability of bailiffs; and an MDEC update. The November meeting was designed to be a follow-up to the leadership retreats. Administrative Clerks and Commissioners were invited to the meeting to exchange ideas, which was very well received. Stacey Saunders presented on training initiatives underway or planned. Ms. Ortiz and Lonni Summers presented on the work being done by self-help centers. Judge Everngam and Judge Norman Stone discussed the status of the landlord tenant bulk filing effort for MDEC and Judge Stone discussed the work of the Forms Subcommittee. Judge Wilner discussed the authority of judges to issue bench warrants for non-jailable must appear traffic cases and Rose Day presented on caseflow processing.

Education Committee. Judge Hazlett briefed the Council on the work of the Education Committee. She acknowledged the work of Stacey Saunders whom she indicated is an expert in adult education and who worked to change the way programs are taught within the Judiciary. Judge Hazlett noted that the Judicial College received a grant for a two-day Train-the-Trainer Program for faculty, which was very well received. The program was brought in-house and will be offered by Judicial College staff.

Judge Hazlett acknowledged Judge Kiessling and Judge Pastore-Klein, who co-chaired the Judicial Conference Subcommittee, the volunteers, and staff for their work on the Judicial Conference.

Amongst the initiatives highlighted by Judge Hazlett were the two required online courses created for judges and magistrates, *Workplace Laws, Regulations, and Policies Affecting Judges* and *Ethics for New Trial Judges*. The New Trial Judges Orientation was redesigned and there were over 10,000 seat hours in judicial education with a no-show rate of approximately .03 percent. The committee is supporting proficiency-based education that focuses on what an individual needs to know in order to do his or her job. The first faculty/mentor banquet was held to recognize those who volunteer their time to serve as faculty for judicial and staff educational programs. The Magistrates Subcommittee is planning the first ever Magistrates Conference and is developing an orientation program. The mentor program has 44 mentors assigned to new judges. The Technical Education Department had 14,700 seat hours, an increase of 25 percent over the previous year. Staff continue to support MDEC training. The Commissioner Education Subcommittee updated the Commissioners' Manual and supported four training programs in September.

Judge Hazlett stated that the committee is looking forward to continuing to explore ways to communicate educational needs. She thanked Ms. Saunders and her staff for their hard work.

Senior Judges Committee. Judge Kenney briefed the Council on the work of the Senior Judges Committee stating that the role of the committee is to integrate senior judges into the new technologies and initiatives of the Judiciary, and to make sure they have the necessary training, equipment, and resources to perform their duties as seamlessly as possible. He noted that among the concerns addressed by the committee is the effective use of MDEC and working with the Judiciary Human Resources (JHRD) regarding modifications to retirement materials and presentations being offered to retiring judges. Judge Kenney stated that the Maryland State Bar Association is creating a Senior Judges Board.

Chief Judge Barbera thanked the committees for the great work they all are doing and stated that their efforts make her proud to be a part of the Judiciary.

5. Resolutions

Chief Judge Barbera acknowledged Judge Hazlett, Susan Braniecki, Timothy Sheridan, and Robert Prender for their work on the Judicial Conference as their terms came to end. She expressed her appreciation for their service and contributions to the administration of justice through the Council.

Action Item

- The Council members should read the draft Jury Manual and forward any questions/comments to Judge Fletcher-Hill. The manual will be discussed at the January meeting.

There being no further business, the meeting adjourned at 12:15 p.m. The next meeting is scheduled for January 24, 2018, beginning 9:30 a.m.

Respectfully submitted,



Faye Gaskin