

# Justice Matters

A publication from the Maryland Judiciary

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## Judiciary Budget/ Legislative Package

The Maryland Judiciary recently presented the General Assembly with its Fiscal Year 2005 budget, along with a package of bills concerning court-related issues. The proposed FY-05 budget of \$318,989,757 represents a 2.9 percent increase over last year's appropriation. The increase in General funds includes approximately \$2.5 million for mandatory requests for step increases and \$1 million for deferred compensation.

The requested \$8.9 million budget increase includes \$1 million for the Maryland Legal Services Corporation to raise funds and make grants to nonprofit organizations for the provision of civil legal assistance to low-income persons in Maryland, and \$348,000 to fund the Judiciary drug court initiative. Maryland Governor Robert Ehrlich's budget request includes \$588,000 to enhance the statewide drug court initiative by creating six new positions and providing additional funding to counties whose federal funding is expected to expire in FY-05.

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## First Day on the Job for Judge Clayton Greene, Jr.

Typically, an employee's first day on the job consists of orientation, introductions with new colleagues and getting settled in. For Judge Clayton Greene, Jr., who was recently appointed to the Court of Appeals, February 5 was a whirlwind of activity both on and off the bench. Judge Greene's official first day on the job entailed reviewing cases, sitting on the bench listening to appeals,

conferencing with his new colleagues, and preparing for the next day's cases. So much for easing into the position.

"I like the fast pace—reviewing the cases, getting to the heart of the problem, stating your analysis in a clear, concise and succinct matter, then moving on to the next case," says Judge Greene, who served on the intermediate appellate court the past two years. "I'm thankful for my time working with Chief Judge [Joseph] Murphy and the judges on the Court of Special Appeals. That experi-



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### Proposed Legislative Bills

**Civil Proceedings – Jurors and Alternates** – Bill would allow a judge to permit more than six regular jurors and set limits on the number of jurors deliberating, while also providing for alternate jurors pursuant to the Maryland Rules, and barring them from deliberating if not seated as jurors.

**Marriage Ceremonies – Authorized Officials-Fees** – Bill would establish a non-refundable \$25 fee payable to the clerk of court before issuing a license for a marriage ceremony performed by a Maryland judge, and clarifies the judges authorized to perform marriage ceremonies. Fees payable for a clerk to perform a marriage ceremony need not be prepaid.

**Permanency for Families and Children Act of 2004** – Bill would rewrite the Termination of Parent Rights, guardianship, and adoption statutes similar to the CINA bill. (See TPR article on page 8)

In addition, several bills were introduced concerning **Jury Trial Prayers**, including a bill that would limit the right to a jury trial in a *de novo* appeal from the District Court to a circuit court unless the penalty of imprisonment is more than 90 days; a bill that would create new offenses—bad checks, credit card offenses, and theft—with a penalty of less than 90 days imprisonment and/or a fine of less than \$500; a bill that would create a category of offense triable in the District Court as a Class B misdemeanor to be implemented at the discretion of a prosecutor upon proper notice; and a bill that would codify a crime of assault in the third degree and make the crime within the exclusive original jurisdiction of the District Court.

## Chinese Delegation Visits Maryland



Judge Joseph P. Manck briefs members of the Nanjing judicial delegation in the State Law Library in Annapolis.

photo by F Todd Silver

On January 8, a Judicial Delegation from Nanjing, China visited the Courts of Appeal Building. The eight-person delegation met with Chief Judge Bell, and were given a briefing on the Maryland judicial system by Anne Arundel Circuit Administrative Judge Joseph P. Manck, Anne Arundel Circuit Court Judge Michael E. Loney, and District Court Chief Judge James N. Vaughan.

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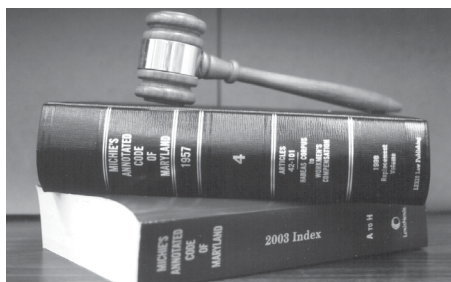
## Special thanks to these contributors to this issue:

Gray Barton, Ken Brown, Judge Lawrence Daniels, Linda Love McCormick, Lisa Mohink, Pam Ortiz, Susan Raleigh.

# New Rules on Access to Court Records

The Court of Appeals voted to adopt new rules clarifying access to court records in paper and electronic form at a public hearing on February 9. The rules will become effective October 1, 2004.

The new rules have implications for administrative judges, trial judges and custodians of Judiciary records. Plans are underway to communicate the new rules within the Judiciary and to attorneys that may be affected by them. The final version of the rules will not be available until the Court has had the opportunity to review the text of the revisions made at the hearing. At the earliest, this may occur when the Court sits in March. Once final, the rules will be posted at: [www.courts.state.md.us/access/index.html](http://www.courts.state.md.us/access/index.html).



The adoption of court rules is the culmination of efforts that began in March 2000. The negative public reaction to the proposal of new rules on access to court records from an ad hoc Judiciary group led to the creation in March 2001 of a larger committee. This represented parties who were interested in greater access to records and those who expressed concerns over privacy of personal information. The committee, chaired by retired Court of Special Appeals Judge Paul E. Alpert, provided recommendations to the Court of Appeals in March 2002. The Court invited public comment on those recommendations at a public hearing in December 2002, and the next month

formed a three-judge working committee responsible for advising the court how to proceed. Court of Appeals Judge Alan M. Wilner drafted the court rules for the Court's consideration.

[www.courts.state.md.us](http://www.courts.state.md.us)

## Maryland Justice Training Institute



photo by F Todd Silver

The first Maryland Justice Training Institute (MJTI) was held in Annapolis November 6 and 7 at the Judicial Training Center, and on December 8 at the Courts of Appeal Building. The program, produced in partnership with The Maryland State Law Library and the Citizen Law-Related Education Program (CLREP), was attended by 20 teachers from throughout the state.

The teachers participated in a variety of workshop sessions given by Maryland judges and legislators in an effort to increase their knowledge and understanding of the judicial system. In addition, the teachers observed both trial and appellate courts, participated in forums with appellate court judges, prepared for mock oral arguments and were given informative materials to take back to their schools.

All 20 participants received MJTI Fellow status certificates, and are now responsible for conducting training in their home districts for either 100 students or 10 teachers based on the materials and knowledge gained from the Institute.

## Congratulations to:

- **Chief Judge Robert M. Bell**, who was honored at the Morgan State University National Alumni Association's 19<sup>th</sup> annual Dr. Martin Luther King, Jr. Scholarship Breakfast, held on January 3 at Martin's West in Woodlawn.
- Court of Special Appeals **Judge Andrew L. Sonner**, who received the Charles English Award on November 14 at the Wyndham City Center Hotel in Washington, D.C. The award, presented by the American Bar Association's Criminal Justice Section, recognizes lawyers and judges who enhance the relationship between prosecutors and defense lawyers.
- **Louise Pease**, Clerk in the Civil Division of the District Court of Maryland, Montgomery County, who recently celebrated her 40 years of exemplary service in the District Court. Pease was honored at a celebration on February 3, 2004.

## News from the Bench

**Court of Special Appeals Judge Clayton Greene, Jr.** was appointed to the Court of Appeals on January 22, 2004. Judge Greene, who was first appointed to the District Court bench in 1988 and also served on the circuit court bench, replaces Judge John C. Eldridge, who retired.

**David A. Boynton** was appointed to the Montgomery County Circuit Court bench on December 18, 2003. Boynton, a longtime prosecutor with the State's Attorney's Office in Montgomery County, fills the vacancy created by Judge Paul H. Weinstein's retirement.

**Cathy Hollenberg Serrette** was appointed to the Prince George's County Circuit Court bench on December 19, 2003. Serrette, a Master for Prince George's County Circuit Court, replaces Judge Robert J. Woods, who retired.

**Sylvester B. Cox, Jr.** was appointed to the Baltimore City Circuit Court bench on January 7, 2004. Cox, a 15-year veteran of the Baltimore City State's Attorney's Office, replaces Judge William D. Quarles, who was appointed to the U.S. District Court for the District of Maryland in 2003.

**Thomas G. Ross** was appointed to the Queen Anne's County Circuit Court bench on January 9, 2004. Ross, a longtime practicing attorney, replaces former Administrative Judge John W. Sause, Jr., who retired.

**Theresa M. Adams** was appointed to the Frederick County Circuit Court bench on January 9, 2004. Adams, a Washington County Assistant State's Attorney, replaces Mary Ann Stepler, who retired.

**W. Michael Pierson** was appointed to the Baltimore City Circuit Court bench on January 14, 2004. Pierson, a longtime practicing attorney, fills the vacancy created by Judge Ellen M. Heller's retirement.

**W. Newton Jackson, III** was appointed to the Wicomico County Circuit Court bench on January 16, 2004. Jackson, a longtime practicing attorney, fills the vacancy created by Judge D. William Simpson's retirement.



# Having A Nose for Safety

Try this test at home. Have a family member hide some crushed garlic in the kitchen. Now put on a blindfold and try to find it. When you have no luck, you can begin to appreciate the special skills of two-year-old Willow, 18-month-old Nemo, and three-year-old Reces of the K9 Squad of the Sheriff's Office of Prince George County. Each and every day one of these formerly unwanted dogs may be found patrolling the halls of the Upper Marlboro courthouse sniffing for bombs.

## 19,000 Types of Bombs

The dogs, all Labrador retriever mixes, are capable of detecting approximately 19,000 known combinations of bombs. Detection training begins by teaching the dog to respond to black gunpowder, which is first shown to the dog and then hidden. When the dog finds the powder, it is trained to sit. Once the dog masters sniffing out gunpowder, other explosive materials are introduced. The dog receives a total of eight weeks of training, but remarkably, the K9 trio mastered the bomb sniffing skills in less than one week; the remaining seven weeks were devoted to social interaction with their eventual handlers. The dogs receive a refresher course in detecting explosives every two weeks.

Of all a dog's senses, the sense of smell is the most highly developed. Scientists know that dogs can sense odors at concentrations nearly 100 million times lower than humans can, but are not exactly sure what it is that the dogs actually detect in an explosive device. A well-trained bomb dog is rarely fooled; if it's designed to explode, the dogs will find it. All three dogs in the unit are state-certified and Willow and Reces are nationally certified, meaning that they detected every hidden bomb in a timed test.

In addition to their bomb detecting skills, Willow, Nemo and Reces have refined social skills. In selecting a dog, the K9 unit searches the animal shelters in Maryland and Virginia for a dog that won't quit, that wants to play and that isn't aggressive

towards people or other dogs. In a courthouse as busy as Upper Marlboro, all of these attributes are required.

Reces, for example, may begin her day with a random search inside and outside of the courthouse. Generally, the dog will thoroughly search a room without the assistance of her handler. If she detects nothing, the handler may search specific areas of the room with the dog. Once the courthouse opens for the public, the dog serves double duty—as a bomb detector and as everyone's best friend. Upon seeing Reces, people immediately want to pet her and know her name, and the dog has to respond in an ever-pleasant way to the friendly attention, while maintaining her vigilance. It's a feat of patience and concentration that is often not equaled by human counterparts.

"It is remarkable how these dogs make the courthouse safer"

Judge Jean Baron, Prince George's District Court.

"Many a visitor to the courts enters the building in a—how should this be said tactfully—disgruntled mood," said Judge Jean Baron of the District Court. "After all, people generally enter a court to resolve a conflict. It is remarkable how these dogs make the courthouse safer, and at the same time, change a person's mood. The K9 unit manages to put smiles on many faces and makes the court a friendlier place."

There are four dogs in the K9 Squad of the Sheriff's Office of Prince George County. Deputies Sheriff Jody Groves, Rod Stotler and Jim Maringo handle the three bomb-sniffing dogs, while Deputy Sheriff Anne Facht works with the tracking, search and rescue dog, Jamie Liz, a beautifully expressive bloodhound. All the dogs live and work with their partners.



(L-R) Deputy Sheriff Anne Facht with Jamie Liz, Deputy Sheriff Rod Stotler with Nemo and Deputy Sheriff Jody Groves with Willow.



# HOLIDAY COURT VISITATION PROGRAM

By Lisa Mohink, Family Law Case Manager, Howard County

On December 18, 2003, Howard County Circuit Court implemented a Holiday Court Facilitation Program in an effort to provide immediate access to the court system for parents seeking holiday visitation with their children.

The issues of where, when and with whom children will spend the holidays can easily trigger family discord. Urgently searching for resolution, families often resort to the court. Both *pro se* litigants and represented parties want the court to decide, enforce or interpret former agreements regarding holiday arrangements. However, because holiday visitation involves such a short block of time, pleadings filed in the normal course may not be able to be scheduled until after the holidays have passed. As a result, the Holiday Court program in Howard County was created.

“We created the Holiday Court program so that parents seeking holiday visitation with their children can resolve the legal matters quickly,” said Howard County Circuit Court Administrative Judge Diane Leasure. “It is the court’s goal to use facilitation to resolve temporary, yet urgent visitation situations. Therefore, the court’s dockets will not be overwhelmed with emergency filings and litigants will be able to resolve their various visitation disputes without judicial intervention.”

The process for participating in the Holiday Court program was relatively simple: A facilitator was available to

help litigants resolve holiday visitation disputes all day on December 18, 19, 22, 23, and 24. If litigants were unable to reach an agreement with the facilitator, a judge was available to hear the case. Each side was provided with a brief opportunity for argument and in the Court’s discretion, there could be brief testimony. No filings of any motions were necessary. The only requirement was that there was a case existing within the Circuit Court for Howard County, regardless of whether it was active or inactive.

Holiday Court was announced to the community on December 16 through e-mails to the Howard County Bar Association and press releases to local newspapers. To participate in the program, parties were advised to contact the family law coordinator. If parties were represented by counsel, counsel was instructed to reach a mutually agreeable date and time from the selection above and contact the case coordinator. If parties were unrepresented, after contacted, the coordinator notified the other side that one party wanted to participate in holiday facilitation and scheduled the case appropriately. If one party refused to participate in facilitation, an immediate hearing was scheduled.

Program organizers contacted facilitators who had been previously trained in mediation and asked them to participate. Ultimately, Brenda Fishbein, Oren Saltzman, David Titman, Marylen Bartlett, Deborah Dwyer, Hugh Ferrell, Harry Siegel, Beth Jackson Day and William Glasgow agreed to volunteer their time for the program. Each facilitator was available either from 9:00 a.m. to 12:00 p.m. or 1:00 p.m. to 4:00 p.m. for scheduled cases and in the event that a judge or master wanted to refer a case on their respective dockets to facilitation.

“We literally could not have done this program without the help of the facilitators,” said Judge Leasure. “I applaud them for dedicating their free time to assist with this worthwhile program.”

Although only a handful of cases participated in facilitation, attorneys in the community have commented that the mere existence of the program helped settle cases. Litigants knew if they were unable to reach an agreement they would have to come to court to resolve the issue. In the future, the program will be announced earlier in the year, and therefore, may be able to assist more persons. Additionally, the program may be expanded to serve other holidays, such as spring break. The court will also attempt to resolve these issues prior to the beginning of the school year.



On December 18, 2003, recently retired Court of Appeals Judge John C. Eldridge spoke to a group of 50 Anne Arundel

County business leaders and members of the community at the Courts of Appeal Building in Annapolis.

The event was organized by Leadership Anne Arundel, a non-profit organization whose mission is to strengthen and diversify the leadership within the county.

## Permanency for Families and Children Act of 2004

# Judiciary Proposes TPR and Adoption Legislation

Over the past four years, the Foster Care Court Improvement Project (FCCIP) has undertaken the task of rewriting the Termination of Parental Rights (TPR) and Adoption statute, 5-301 et. seq., of the Family Law Article. Specifically, the Child in Need of Assistance (CINA) Subcommittee of the FCCIP and its consultants, under the leadership of the Hon. Pamela L. North, has been meeting at least monthly with several stakeholders in an effort to re-organize and revise this statute.

Throughout this process, the FCCIP received hundreds of comments and suggestions from judges, masters, and other practitioners throughout the state and has incorporated what it believes to be the best practice regarding TPRs and adoptions. As with the previous Child in Need of Assistance (CINA) statute, the TPR statute currently is comprised of provisions relating to different substantive areas that require different procedures. Likewise, the CINA Subcommittee and its consultants have separated the TPR and adoption statute into three separate sections: Department of Social Services (DSS)-Related Guardianship and Adoption Proceedings; Voluntary Agency Adoptions and Guardianship Proceedings; and Independent Adoptions.

This separation will afford judges, masters, practitioners, and others the ability to look in one section and chronologically follow the legal process for the type of proceeding in which they are involved. The major highlights of this legislation are summarized below:

### DSS-Related Guardianship/Adoptions

Primary purpose and result are to ensure compliance with the philosophy and letter of the federal law requiring a timely move to permanency for a child while protecting the health, safety and rights of the child and the rights of the parents and the potential adoptive parents. Examples:

- Precise timelines for notice of filing, hearing petitions and issuing final rulings and for reviewing cases where guardianship has been granted but adoption has not yet occurred.
- The court's consideration of the impact of termination of parental rights and guardianship on the child and the child's future are factors for the court to consider in deciding whether or not it is in the child's best interests to terminate his or her legal relationship with parents.
- Enforceability of voluntary agreements for post-adoption contact between a child and his or her parents or other relatives if agreed to by the adoptive parents and found by

the court to be in the child's best interests. Note: breach of such an agreement will not be grounds to set aside an adoption.

- Encouragement of parents and children to agree to guardianship where the agreement is based upon the expectation that the child will be adopted into a particular family through implementation of a "conditional consent" (for parents) and "conditional acquiescence" (for children). Note: violation of such a condition will not be grounds to set aside a final adoption.
- Creation of a new type of proceeding that will allow parents whose child is a Child in Need of Assistance to consent to adoption in the same way as parents whose children are not. Parents can avoid the stigma, delays and humiliation of having the focus on terminating their parental rights.
- Requirement that prior to the granting of any adoption or granting of permanent guardianship to an individual, there must be a homestudy by a licensed agency showing the fitness of the home and that the child has successfully been in the home for at least 180 days.

### Vol. Agency Adoption/Guardianships

- Reduces the revocation period to 14 days from 30 days. The proposed change will make it possible for young infants to be placed with their permanent families sooner during the first few weeks of life when critical stages of infant bonding and brain development are known to occur.
- Articulates that the court can enforce post-adoption contact agreements.
- Permits (but does not require) birthparents to give conditional consent.
- Expands the definition of "father" to include the person who is the genetic father of the child.
- Requires that a contested paternity case be settled by the same court hearing the guardianship case and before the guardianship petition is acted upon, thus eliminating the need for a separate paternity action.

### Independent Adoptions

- Preserves the notice provisions to unknown parents or parents who have not been located to assure their rights, but greatly reduces the lengthy notices that must be published.
- Recognizes the voluntary nature of consents in independent adoption by reducing the revocation period for consents from 30 days to 14 days.
- Establishes a clear procedure for post-adoption contact between parties that is enforceable.

# Pro Bono Efforts in Maryland

The Court of Appeals adopted rules effective July 1, 2002 requiring licensed Maryland attorneys to report on their *pro bono* activities. In early 2003, attorneys received information about how to fulfill the reporting requirement for *pro bono* activities they engaged in calendar year 2002. After analysis of the data was completed, a final report was prepared by the Administrative Office of the Courts with the assistance of Anasys, Inc. The findings have now been made public.

“This is the first time information has been collected about statewide *pro bono* activities in Maryland,” said Pamela Cardullo Ortiz, executive director of the Department of Family Administration, who oversaw the study of *pro bono* activities. “The data in the report provides a good baseline that will help us assess whether the Judiciary’s efforts to increase *pro bono* activity have had an impact over time.”



The court rules set an aspirational goal of 50 hours of *pro bono* activity for full-time practicing lawyers. The substantial portion of those hours, the report suggested, should be spent rendering legal services without a fee or at a substantially reduced fee. The rules permit attorneys to count activities improving the law, legal system or legal profession toward the goal of 50 hours. Also, they could reach the goal by making a financial contribution to legal services organizations.

The purpose of the study of *pro bono* activity was to identify and evaluate the level of *pro bono* service statewide; assess whether the targeted goal of 50 hours was reached; determine the level of financial contribution to legal services organizations; and identify areas that need improvement. In addition, analysis of the data yielded other beneficial information, such as the number of attorneys per Maryland population (3.59 attorneys per 1,000 individuals) and the highest (Baltimore City-7.7 per 1,000 population) and lowest (Somerset County-.57 per 1,000 population.) number of lawyers per capita. The study also found that lawyers with a longer practicing career tended to participate more in *pro bono* service.

The report provides key demographic and descriptive information about the Maryland Bar that will assist the local *pro bono* committees in designing programs that match the Bar’s strengths with client needs, said Ortiz. Specifically, the top five primary practice areas are corporate/business (9.5%), litigation/defense (8.9%), criminal (7.4%), real estate (6.2%) and government (5.0%). Conversely, the bottom five practice areas are arts law (0%), mental health (.1%), traffic/DWI (.1%), internet (.1%) and entertainment (.1%). Family law is the sixth most common practice area, but is the type of *pro bono* assistance attorneys are most frequently providing and probably the area of greatest need, she noted.

## Report Findings

The study found that 47.8% of lawyers reported some *pro bono* activity, totaling nearly a million hours of donated time. Regarding Maryland lawyers both full- and part-time, 17.7% reported 50 hours or more of *pro bono* service; 22.3% of full-time attorneys reported 50 hours or more. The jurisdictions reporting the highest percentage of attorneys providing 50 hours of service were all on the Eastern Shore: Caroline (52.9%), Somerset (37.5%), Wicomico (36.5%), Worcester (36.2%) and Cecil (33.3%).

In addition to providing legal services, the court rules permitted attorneys to include hours spent improving the law and legal profession. Lawyers provided 406,477 hours in that area, representing 23.6% of Maryland lawyers reporting. Also, lawyers contributed \$2,208,001 to organizations that provide legal services to persons of limited means, representing 15.7% of the Maryland lawyers that reported.

“Along with compiling key data, the reporting process itself has had a positive impact on *pro bono* activity,” Ortiz said. “Many attorneys have expressed an interest in learning of *pro bono* opportunities and improving their level of service.”

The 2002 *pro bono* services report is posted on the Judiciary’s web site and can be found at <http://www.courts.state.md.us/probono/index.html>.

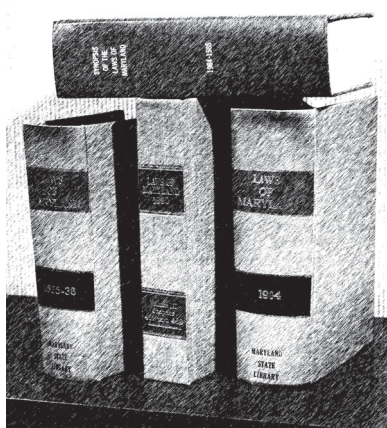


# Orphans' Judges Establish Conference

For many years, Orphans' Court judges in Maryland have wanted a platform to share and express their ideas, communicate with trial and appellate court judges, and heighten their visibility as a respected and hard-working court. Their vision turned into reality on December 15, when the first meeting of the Conference of Orphans' Court Judges was held at the Judicial Training Center in Annapolis.

"This really validates what we do as Orphans' Court judges," asserted Hon. Gail Schaffer, Orphans' Court Judge for Anne Arundel County and chair of the newly established Conference. "Because we function differently than the circuit courts or the District Court, we haven't always been held in the same regard. I think that by creating the Conference, we will enhance our relationship with other members of the judicial system."

Orphans' Court, a constitutional court, is a relatively unknown Maryland court mainly because of its unique function. In most counties and in Baltimore City, the Orphans' Court is comprised of an elected three-judge panel that hears matters involving decedent's estates which are contested and supervises all those estates which are probated judicially. Orphans' Court approves accounts and awards, personal representative's commissions and attorney's fees, when applicable, and has concurrent jurisdiction with circuit courts in the guardianships of minors and their property. All matters involving the validity of wills and the transfer of property in which legal questions and disputes occur are resolved by the Orphans' Court.



Orphans' Courts across the state work independently of one another. Prior to the establishment of the Conference, the only formal opportunity for these judges to assemble was for the Maryland Association of Judges of the Orphans' Court (MAJOC). MAJOC meetings, however, were only held twice per year, and were often lightly to modestly attended. "We all have other jobs, so the commitment wasn't as strong as we would have liked it to be," said Judge Schaffer. "MAJOC also didn't carry the [clout] of an organization backed by the Court of Appeals."

During the close of the 20<sup>th</sup> Century, Judge Howard Golden, who at the time was an Orphans' Court Judge in Baltimore City and President of MAJOC, began collaborating with Chief Judge Bell and State Court Administrator Frank Broccolina to create an organization that would validate the value of the Orphans' Court. When Judge Golden retired in 2002, Judge Schaffer was elected chair of MAJOC, and continued his pursuance for a more stabilizing association. In November 2003, the Court of Appeals officially created the Conference of Orphans' Court Judges under

Article IV of the Maryland Constitution. "Chief Judge Bell has always supported the Orphans' Court," said Judge Schaffer. "Under his advisement, we will become more consistent and function more efficiently throughout the state."

The 14-member conference, which will meet quarterly, will provide several benefits to Orphans' Court Judges, such as create a central forum for judges from across the state to communicate their experiences and share helpful tools and resources; provide a formal representative body for purposes of consulting and advising the Chief Judge in matters affecting the Orphans' Court; and improve communications with judges and clerks of both trial courts.

During the first conference meeting, attendees discussed legislative matters, continuing education, on-line research capabilities, additional staff support, court security and alternative dispute resolution (ADR). "Judge Baylor Thompson and Judge Karen Friedman just recently started ADR training in Baltimore City. The Conference plans on inviting Rachel Wohl (Director of the Mediation and Conflict Resolution Office) to the next meeting to describe how mediation can work for all of us," Judge Schaffer said. "With many of the cases that we see, the attorneys often play the role of mediator, but there are some issues in which mediation will definitely help, particularly with regards to *pro se* cases."



## Conference of Orphans' Court Judges

Hon. Gail Schaffer, Chair  
 Hon. Joyce M. Baylor-Thompson, Vice-Chair  
 Hon. Elroy G. Boyer, Jr.  
 Hon. Melissa Pollitt Bright  
 Hon. Wendy A. Cartwright  
 Hon. Charles Coles  
 Hon. Joseph W. Eichelberger  
 Hon. Barbara Bowen Elliot  
 Hon. Karen Friedman  
 Hon. Theresa A. Lawler  
 Hon. Carolyn I. Todd  
 Hon. Joseph D. Madden  
 Hon. James E. Thomas  
 Hon. Timothy S. May

# YANA Gives Hope to Women Offenders

By Hon. Charlotte M. Cooksey,  
District Court Judge for Baltimore City

In recent years, the number of women offenders has increased dramatically. According to a study by the Bureau of Justice Statistics, the number of male inmates has grown 77 percent since 1990, while the number of women prisoners has increased 108 percent.<sup>1</sup> Many of the women who cycle endlessly through the criminal justice system are charged with prostitution or have prior convictions for prostitution. These offenders present tremendous challenges to all parts of the criminal justice system and are a serious concern of the public.

Recognizing that the traditional approach to the women offender—brief periods of incarceration or probation—does little if anything to reduce recidivism, to rehabilitate or to improve the lives of the defendants or community residents, the Open Society Institute awarded a grant to YANA (You Are Not Alone), Inc. for a jail diversion program. YANA, a non-profit organization that provides supportive services to prostituted women, forged a partnership with FAST (Forensic Alternative Services Team) to implement the YANA HOPE (Helping Oppressed People Engage) program. The FAST program is a mental health jail diversion program in Baltimore City, which is funded by the Mental Hygiene Administration and operates out of the Circuit Court Medical Office.

The Baltimore City District Court, the Office of the State's Attorney, and the Office of the Public Defender agreed to participate in the initiative. The project is being piloted in the City's Southern District, where community organizations identify prostitution as their number one problem. In order to be eligible for the program, the defendant must be charged with prostitution or have a prior conviction for prostitution; live in South Baltimore; have a history of mental illness or trauma; and agree to comply with the rules. The defendant may not be charged with or have a prior conviction for a crime of violence.

## Intensive Case Management

YANA staff provide intensive case management for issues related to substance abuse, mental health, medical care, financial benefits, housing, education, job training and basic life skills. They provide basic resources, including food, clothing and hygiene products, as well as access to showers and laundry facilities. Participants are included in a support group to offer and receive assistance from their peers who share similar life experiences. Counseling is offered for issues stemming from prostitution, trauma, sexual abuse and domestic violence. Assistance in accessing the programs of other providers is also given.

The ambitious undertaking of the YANA HOPE program is an attempt to utilize gender-responsive practice. FAST staff assesses the defendant for eligibility and offers eligible defendants an opportunity to participate in the program in lieu of incarceration. If the defendant is willing, and the judge agrees, FAST monitors the defendants' compliance with a contractual plan, which incorporates the array of services. This may be accomplished pre-trial, presentence, or post sentence, but is most often presentence. FAST staff acts as the probation agent and reports any violations to the judge. Immediate action is taken on violations and, through an agreement with the police, the defendant is promptly picked up on the warrant.

1. Bureau of Justice Statistics. (1999). *Special report: Women Offenders*. Washington, DC: U.S. Department of Justice. [www.ojp.usdoj.gov/bjs/pub/pdf/wo.pdf](http://www.ojp.usdoj.gov/bjs/pub/pdf/wo.pdf)

## Law Day 2004: What Can *Brown* Do for You?

In recognition of the 50<sup>th</sup> Anniversary of *Brown vs. Board of Education*, the courts and court-related agencies are encouraged to celebrate Law Day 2004 (May 5) by honoring this landmark case.

The Maryland Judiciary, Maryland State Law Library and the Maryland Center for Civic Education will present their second annual Law Day Conference on May 1 2004 at the Judicial Training Center in Annapolis. The Conference will provide plenary sessions on the impact of the *Brown* decision, and how its legacy has evolved. More than 200 teachers throughout the State of Maryland are expected to attend.

Please contact the Court Information Office (410) 260-1488 for information about upcoming programs and materials.

# Judge Clayton Greene, Jr., cont. from p. 1

ence certainly helped make my transition to the Court of Appeals smooth.”

Judge Greene notes that Maryland’s two appellate courts have a number of similarities. Although the process for choosing cases differ, the procedure for reviewing, listening and debating appeals is comparable. Judges on both courts have similar caseloads and are responsible for writing opinions. The commute hasn’t changed much—the Court of Appeals is located just two floors above the Court of Special Appeals—and neither has the protocol.

“The one rule you remember is to defer to the senior judges,” he relates. “If you have a great question that you want to ask, you have to wait until the senior judges are done with their questions, and if a senior judge asks your question, it’s just something you have to get used to.”

Judge Greene also has to get used to being the ‘junior judge’, a title previously held by Judge Lynne A. Battaglia. As junior judge, he is the last judge to enter and exit the courtroom, he has to make sure that the conference room doors are closed, and he is the first judge to speak during conference. “There is some pressure being the first to speak at conference,” Judge Greene says. “You hope that you have clearly articulated the outcome of the case for all the right reasons, and that the senior judges will understand your analysis.”

With regards to his new responsibilities as a Court of Appeals judge, he notes that two of the main differences between the appellate courts are the weight and complexity of cases and the process for writing opinions. Cases heard on the Court of Appeals often carry a higher significance to the citizens and/or laws of Maryland, and usually have a narrower scope. Although Court of Appeals judges can choose most of the cases they hear, they are required by law to take on issues of major individual and wide-ranging significance, such as the death penalty and legislative redistricting. “These issues require more in-depth analysis, not only knowing the facts and laws concerning the case, but also looking at similar cases and laws all over the country,” he says. “The opinions that are written here are all published because the issues are of great public concern.”

When he sat on the Court of Special Appeals, Judge Greene says he usually knew which opinions he was responsible for prior to going into court. Therefore, he could focus on those cases to gain a clear picture for what he envisioned the outcome would be. “On the Court of Appeals, I have no idea what I’m going to be responsible for writing, so I have to closely examine and scrutinize all the cases heard throughout the day,” he says. “It’s a very me-

thodical approach, just as it was on the Court of Special Appeals, but the research and analysis is more in-depth.”

At the end of his first day, Judge Greene says he was appreciative of his new colleagues, who welcomed him into the family and provided comfort for his new surroundings. “They are a really great group of individuals,” he says. “Fun loving, but when it’s time to be serious they roll up their sleeves and get the work done.”

Judge Greene has already made an impression on both his colleagues and the litigants who argue before him. Chief Judge Bell notes that on Judge Greene’s second day, all litigants arguing before the Court of Appeals went out of their way to welcome him. “That’s something that is unique in my experience on the Court,” says Chief Judge Bell. “Judge Greene is a welcome addition and will fit right in.”



photo by Lynn Sadler

## The Toughest First Day?

Judge Greene is one of the few Maryland judges who has served on all four levels of the court system. When asked which first day on the bench was toughest, he hardly hesitated to name the District Court. Even his time spent as a public defender and a successful private attorney couldn’t prepare him for his first day of traffic court.

“When I first took my seat on the bench I quickly realized that I have a courtroom full of eyes on me, and those eyes are looking to me for answers to their problems,” he recalls. “They were all curious as to what this judge was going to do. I had no clue what the litigants or witnesses were going to say, and at the same time I had to be attentive as to what was happening in the courtroom. Coming up with a sentence or decision that made sense, in light of the fast pace of the District Court, was very difficult.”

# Studies Show Life/Cost Benefits of Drug Treatment Courts

**Drug treatment courts provide a more effective means of rehabilitating drug users; they save taxpayers' money, while showing a significant reduction in recidivism.**

**Gray Barton,  
DTCC Executive Director**

Two new studies published by the Drug Treatment Court Commission of Maryland (DTCC) illustrate the valuable benefits of drug treatment court programs. The studies, conducted by NPC Research in Portland, Ore., found that participants in the drug treatment court programs were less likely to be re-arrested compared to drug offenders who went through the normal judicial process. In addition, the studies documented significant cost savings when drug treatment court programs were utilized.

“The findings in these studies reiterate a growing trend across the U.S.,” said Gray Barton, DTCC Executive Director. “Drug treatment courts provide a more effective means of rehabilitating drug users; they save taxpayers’ money, while showing a significant reduction in recidivism.”

Maryland has 11 drug treatment courts in operation and another 10 in the planning phase. DTCC commissioned NPC, which has evaluated drug treatment court programs in more than a dozen counties in California and Oregon, to conduct separate studies of the Anne Arundel County Adult Drug Court program and the Baltimore City Circuit and District Adult Drug Court programs. The purpose of the studies was to analyze the outcome effectiveness and financial cost-beneficial effects of the programs.

The separate studies compared participants in the 1997-1998 Anne Arundel Drug Court classes and the 2000 Baltimore City Drug Courts classes with samples of individuals with similar demographic characteristics and prior criminal records who did not enter drug court programs.

Among the main issues studied were recidivism rates and financial benefits in the form of recidivism, victimization costs and post-program income taxes paid. Barton noted that the two studies should be viewed separately, given the vast differences between Anne Arundel and Baltimore City’s drug case types and their drug treatment court programs.

Results from the Anne Arundel Drug Treatment Court study showed:

- Over a 48-month period, program participants were re-arrested at a rate 12.3 percent lower than the comparison sample;
- There was \$265,308 in total net benefits, or a 73 percent return on the drug court investment;
- The graduation rate for the sample study was 54.7 percent; 13 percent higher than the national average for drug treatment courts.

Results from the Baltimore City Drug Treatment Courts study showed:

- Using a three-year timeframe, program members were re-arrested 31.4 percent fewer times than those in the comparison model;
- The treatment courts incurred 24.2 percent less in criminal justice system costs than the comparison sample, and when projected on an average of 758 program participants during the study period, more than \$2.7 million in total criminal justice system savings were determined; and
- Using the financial benefits compared to the costs for each participant, there was a \$2,873,306 or 36.2 percent net benefit ‘return’ on the amount invested.

**Both reports can be found on the DTCC website at [www.courts.state.md.us/dtcc/announcements.html](http://www.courts.state.md.us/dtcc/announcements.html).**



## Graduates of Baltimore City Drug Treatment Court



The District Court of Maryland for Baltimore City hosted a ceremony for 35 graduates of the Baltimore City Drug Treatment Court on December 3, 2003. The graduates recently completed the two-year drug treatment program and were awarded with a 'Certificate of Completion.'

The Baltimore City Drug Treatment Court, the first such program in Maryland, was established in 1994. The program, a unique collaboration of the Maryland Judiciary, the Division of Parole and Probation, the State's Attorney's Office, the Office of the Public Defender, the Baltimore City Police Department, the Baltimore City Sheriff's Office and substance abuse treatment providers, provides intensive treatment, supervision and comprehensive judicial monitoring to habitual offenders whose crimes are addiction-driven.



## Worcester Courthouse Rededicated



Long-awaited renovations to the courthouse in Snow Hill were completed on November 14, 2003.

Shown at the ribbon-cutting ceremony are (L-R) Commissioner James Purnell, Sheriff Charles T. Martin, Clerk Steven V. Hales, Comm. Judy Boggs, Comm. Virgil Shockey, Comm. Bud Church, Admin. Judge Theodore R. Eschenburg, Comm. John Bloxum, Comm. Louise Gulyas, Comm. Tom A. Celtola, State's Attorney Joel Todd, and Register of Wills Charlotte K. Cathell.



# Judiciary Employees Drive toward 'Work From Home' Program

It's a contemporary office idea that has finally arrived at the courthouse steps. Starting March 1, 2004, court and court-related agency employees

can apply for the Judiciary's new Telework Program. The program offers workers a benefit that has been long sought-after, while providing department managers and supervisors with a well-structured plan that could improve morale and boost productivity.

"This is a major benefit that our hard working employees have been asking for," says Linda Love McCormick, Director of the Judiciary's Human Resources (HR) Department. "When administered properly, telework programs can greatly improve an employee's quality of life, while at the same time enhance worker efficiency."

The Judiciary's Telework program is a derivative of telework policies implemented by other state agencies, the federal government and departments from other states. The program is a management option, decided by the local administrative official, and not all positions or employees may be able to telework. Susan Raleigh, the HR Department's Telework program coordinator, says the policy creates a level playing field for Judiciary employees.

"What we've found is that some departments are currently using various informal telework programs, whether it be working from home for a few hours, a day, a weekend, etc.," she says. "We want to provide other employees with the same opportunity and benefit."

## Program Benefits

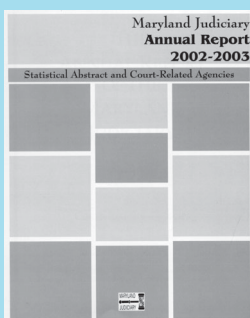
According to the Maryland Department of Budget and Management (DBM), "The State of Maryland has recognized the changing nature of its workforce and has begun to focus on ways to increase productivity while improving the quality of employee work life and morale."

Teleworking improves both the workplace and the environment, and can be a powerful tool for recruiting and retaining valuable employees, according to the DBM website. Working from home can decrease employee travel expenses and commuting stress, and increase the amount of time employees can dedicate for work. Working from home or from a remote location can cut down on the number of drivers on busy roadways, thus reducing air pollution, traffic congestion and gas consumption. In certain cases, teleworking can free up office space and equipment such as computers, printers and desks.

Despite these incentives, department supervisors and managers may be critical of a program that relies heavily on self-sufficiency. To alleviate skepticism, and to provide a forum for expressing concerns, the HR Department held a series of telework workshops in February. During the workshops, Raleigh emphasized the flexibility of the program, which enables the administrative official and employee to collaborate on a plan that's suitable for all parties involved, including other office personnel. Raleigh added that the policy provides the administrative official with complete control over the telework arrangement, including permitting the official to withdraw permission to telework based on the needs of the office. "We tried to make it easy to go through the process ...[and] to make sure that the concerns of supervisors and managers are addressed." She points out that the policy does not authorize home access to the court's Lotus Notes or any court system. Also, teleworkers will be responsible for providing their own office equipment—e.g., furniture, computers and printers—while working from home or at a remote location.

## Statistical Report Ready

The 2002-2003 Maryland Judiciary Annual Report—Statistical Abstract and Court-Related Agencies—will soon be issued to judges, court officials and court-related agencies. The report provides a statistical compilation of the work of the courts and the various court-related units during the past fiscal year.



Copies of both the statistical abstract and its accompaniment, the 2002-2003 Annual Report Highlights, are available from the Court Information Office by calling 410/260-1488.

# Judge Hennegan Answers the Call

By Hon. Lawrence R. Daniels, Baltimore County Circuit Court

Judges of the Maryland State Judiciary can boast of a long, proud record of public service off the bench as well as on. Some judges answer the call to serve on governmental commissions. Other judges answer the call to military service. Judge Jack Hennegan answers the call to public service by, quite literally, rolling up his sleeve to donate blood platelets.

Platelets are the smallest blood cells. The platelet is necessary to prevent bleeding from smaller vessels and is a necessary part of the clotting mechanism. For the past five years, Jack has been a regular donor at the Red Cross donation center in White Marsh, Md. The donation process, 'Aphaeresis,' is a special blood donation procedure in which plasma or selected cellular elements, such as platelets or white cells, are separated from the other parts of the blood and retained. Blood is drawn from a needle inserted in one arm, processed through a cell separator, and the other cells and plasma are returned to the body through another needle inserted in the other arm. Aphaeresis takes approximately two hours compared with a whole blood donation of about eight to ten minutes.

Jack arrives at the donor center and takes a seat in a large, comfortable reclining chair. Unlike the average donor, a single needle is inserted in Jack's right forearm just below the elbow. Jack will tell you that he only needs a needle in one arm because he is such a seasoned donor—the truth of the matter is that only the veins in his right arm

are big enough to accommodate the needle used for aphaeresis. He then settles down to watch a movie. Each donation chair has a TV attached. A donor can either watch a DVD from the Red Cross library or bring a favorite from home. The only discomfort, according to Jack, is the needle stick and an occasional chill. A blanket or two provided by a considerate nurse will generally take care of the latter. About an hour-and-a-half or two hours later the needle is removed from Jack's arm, he has some juice and cookies on the house, and is out the door.

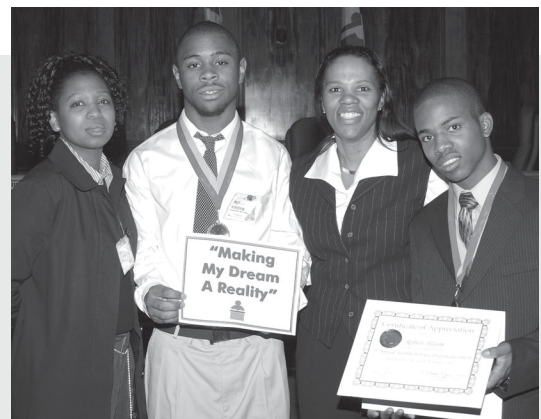
Recently, Jack shortened the interval between donations from three weeks to one week. A young, female cancer patient at Johns Hopkins Hospital was undergoing chemotherapy and needed a continuous supply of platelets. Luckily for her, the closest genetic match on the East Coast was none other than Judge Hennegan. He donated on two successive Mondays so the young patient could receive his genetically-matched platelets the next day, after chemotherapy. Jack is hopeful that his platelets aided in the young woman's recovery.

If you ask Judge Jack Hennegan about donating platelets, he'll tell you that he gives till it hurts, except that donating really doesn't hurt at all compared to the good feeling he gets knowing that he might be helping a sick person get better. Anyone interested in donating platelets or whole blood can call (410) 933-0689 or log onto [www.redcross.org](http://www.redcross.org).



## Ninth Annual DJS Oratorical Contest

The Court of Appeals once again hosted the final round of the Ninth Annual Department of Juvenile Services (DJS) Student Oratorical Contest. The theme for this year's contest, held on November 18, 2003, was "Making my dream a reality."



Charles H. Hickey, Jr. School representatives: L-R: Teacher Tonya Davis, Brian Jones, Principal Rachel Heggins, Stephon Nicholson (1st Place Winner)



## Court Information Office

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[www.courts.state.md.us](http://www.courts.state.md.us)

## upcoming

### March

- 15 Conference of Circuit Judges' Meeting - 9:30 a.m. Judiciary Training Center (JTC)
- 16 Conference of Circuit Court Clerks' Meeting - 10:00 a.m., JTC

### May

- 16-21 New Trial Judge Orientation
- 17 Conference of Circuit Judges' Meeting - 9:30 a.m., JTC
- 18 Conference of Circuit Court Clerks' Meeting - 10:00 a.m., JTC

### June

- 16-19 Maryland State Bar Assoc. Annual Meeting

### September

- 1 Law Clerk Orientation (for incoming circuit and District Court law clerks) - 8:30 a.m.-4:30 p.m. JTC

- 14-16 Judicial Institute Programs, JTC

### October

- 26-28 Judicial Institute Programs. JTC