



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

**Hon. Keith A. Baynes**  
Chair, Conference of Circuit Judges

**Hon. Pamela J. Brown**  
District Court in Howard County

**Hon. Audrey J. S. Carrión**  
Vice-Chair, Conference of Circuit Judges

**Hon. Karen Christy Holt Chesser**  
District Court in St. Mary's County

**Hon. Angela M. Eaves**  
Circuit Court for Harford County

**Hon. Matthew J. Fader, Chief Judge**  
Court of Special Appeals

**Marina Fevola**  
Chair, Conference of Circuit Court  
Administrators

**Hon. Jeffrey S. Getty**  
Circuit Court for Allegany County

**Markisha Gross, Administrative Clerk**  
District Court in Montgomery County

**Hon. Katherine Hager**  
Chair, Conference of Circuit Court Clerks

**Pamela Harris**  
State Court Administrator

**Hon. James A. Kenney III**  
Chair, Senior Judges Committee

**Hon. Donine Carrington Martin**  
Circuit Court for Charles County

**Hon. John P. Morrissey, Chief Judge**  
District Court of Maryland

**Hon. Bonnie G. Schneider**  
District Court in Cecil County

**Hon. Kathy P. Smith**  
Vice-Chair, Conference of Circuit Court Clerks

**Mary K. Smith, Administrative Clerk**  
District Court in Howard County

**Roberta Warnken, Chief Clerk**  
District Court of Maryland

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

**Hon. Dorothy J. Wilson**  
District Court in Baltimore County

**Burgess Wood**  
Vice-Chair, Conference of Circuit Court  
Administrators

**Faye Gaskin, Secretary**  
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# MARYLAND JUDICIAL COUNCIL

## MARYLAND JUDICIAL COUNCIL Minutes May 26, 2021

### Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair  
Hon. Keith Baynes  
Hon. Pamela J. Brown  
Hon. Audrey J.S. Carrión  
Hon. Karen Holt Chesser  
Hon. Angela M. Eaves  
Hon. Matthew J. Fader  
Hon. Jeffrey Getty  
Hon. James Kenney, III  
Hon. Donine Carrington Martin

Hon. John P. Morrissey  
Hon. Alan M. Wilner  
Hon. Dorothy J. Wilson  
Marina Fevola  
Markisha Gross  
Hon. Katherine Hager  
Pamela Harris  
Mary Kay Smith  
Roberta L. Warnken

### Others Present:

Hon. E. Greg Wells  
Faye Gaskin  
Matthew Barrett  
Robert Bruchalski  
Carole Burkhart

Lou Gieszl  
Kelley O'Connor  
Eliana Pangelinan  
Stacey Saunders  
Gillian Tonkin

A meeting of the Judicial Council was held Wednesday, May 26, 2021, via Zoom for Government. The meeting began at 9:30 a.m. Chief Judge Barbera welcomed everyone and advised that the audio portion of the meeting was being live-streamed pursuant to the Open Meetings Act.

Judge Brown moved for adoption of the minutes of the March 24, 2021, meeting. Following a second by Judge Getty, the motion passed.

## **1. Committee/ Strategic Initiative Updates**

- a. District Court Chief Judge's Committee. Chief Judge Morrissey briefed the Council on the work of the District Court Chief Judge's Committee, providing an overview of its membership as well as its meeting schedule. He stated that prior to the pandemic, the Committee met quarterly, but he quickly transitioned to meeting with the administrative judges and others on his team three times a week during the pandemic. The meetings are now held twice a month. With the onset of the pandemic and the issuance of administrative orders regarding operations, several operational policies and procedures had to be adjusted. Chief Judge Morrissey discussed those changes, some of which included shifting the handling of domestic violence, peace order, and ERPO filings to the commissioners, implementing health screening protocols, starting remote video hearings, and changing the frequency at which bail lists and bonds were reviewed. Additionally, Chief Judge Morrissey, along with other Judiciary leadership began regular meetings with the Department of Public Safety and Correctional Services and other justice partners to ensure effective and efficient continuity of operations.

Chief Judge Morrissey then discussed some of the major themes that have emerged since the beginning of the pandemic. The ability to handle the landlord and tenant docket was extremely limited due to the administrative and executive orders, federal court rulings, CDC orders and the moratorium placed on evictions and foreclosures, and the Consumer Financial Protection Bureau's rules. Some of the aforementioned also placed new requirements on landlords and put into place appeals rights. Chief Judge Morrissey noted that the District Court will continue to monitor processes and procedures to ensure compliance.

Another area of concentration has been COVID protocols and vaccines. Through the Judiciary's ongoing communication with the Department of Health, Judiciary personnel, as essential workers, were included early in the vaccination rollout which greatly assisted in the reopening plans. All courts and administrative offices were provided PPE equipment as well as sanitizing products to help to ensure staff and those served were safe. During the course of the pandemic, JIS worked tirelessly to make sure the Judiciary had the technology infrastructure necessary to permit personnel to continue to serve, including video remote platforms – from Skype and Microsoft Teams to Zoom for Government. Courtrooms were equipped with the necessary video equipment and personnel were provided laptops, webcams, and microphones, enabling them to effectively work remotely. The changing processes and protocols were communicated to justice partners, bar associations, the legislature, and the media through various means including town hall meetings.

Chief Judge Morrissey also discussed other actions that were taken during the pandemic, including temporarily stopping 3-507 dismissals, which has never been done before. Also paused were affidavit judgments which Chief Judge Morrissey remarked was the right thing to do until operations fully resumed and people felt comfortable coming to court.

Some of the challenges the Court continues to face include how to best address backlogs. There are limitations to the number of criminal trials that can be conducted in a day, so courtrooms are being backfilled with civil matters. Staggered dockets are still being implemented in an attempt to control the number of people in the courthouse at any one

time.

Chief Judge Morrissey highlighted some of the accomplishments since he last reported to the Council, among which were successfully moving the occupants of the courthouse in Towson to the Catonsville location and back so that repairs to the air conditioning unit could be completed. After the move back to the Towson location, the Catonsville location was officially opened for the occupants of the old Catonsville courthouse; however, because of the pandemic, the dedication will be held at a later date. A new court help center was opened in Catonsville and another is expected to open in Montgomery County in July 2021. The District Court received funding for the Shillman courthouse as well as for a third courtroom in Washington County.

Several new District Administrative Judges were appointed – Judge Schaeffer in District 11, Judge Koch in District 6, and Judge Weinstein in District 1. In addition, the Governor appointed nine new judges from January 2020 through February 2021.

Chief Judge Morrissey expressed his gratitude for the commissioners who, early on, bore the brunt of the changes resulting from the pandemic. He also acknowledged the administrative judges, clerks, bailiffs, problem-solving court staff, and court help center staff who persevered to ensure access to justice during a very challenging period.

Chief Judge Barbera remarked that the work done by everyone during the pandemic has been nothing short of amazing. She expressed her personal thanks to Chief Judge Morrissey for his leadership.

- b. ***Equal Justice Committee.*** Judge Wells provided an update on the activities of the Equal Justice Committee, commenting that as he reflected upon being asked to lead the Committee he knew that it would be a daunting task, but because of the outstanding members, the job has been less difficult. He noted that the work done to date has been extensive and the committee, subcommittee, and work group members have approached it with dedication and enthusiasm. The Committee met every month from July through October, then quarterly. The Committee's work has aligned with Chief Judge Barbera's mandate to look outward as well as inward and is working to implement initiatives that address both perspectives. There have been surveys conducted, both internally and externally and listening sessions or forums are planned to gather additional insight on issues/concerns, as well as suggestions on how the Maryland Judiciary can address the existence of bias or racism in any form it may exist.

Judge Wells remarked that it was clear from the first meeting that there were several issues that had to be addressed. To assist the Committee sort through the various areas, Dean Russell McClain, Diversity and Inclusion, University of Maryland School of Law, was invited to lead a facilitated discussion, resulting in the creation of six subcommittees with targeted areas on which to focus. In addition, the committee members were asked to take the Harvard Implicit Bias test to ground themselves for the work ahead.

The Access and Fairness Subcommittee has five key priority areas: Access to Counsel, Problem-Solving Courts, Accessibility to the Courts, Youth, and Accountability Within the Judiciary. One area that has garnered the subcommittee's attention is the access to counsel in housing matters. Research and Analysis has been asked to analyze

representation data in both trial courts for all civil matters. With respect to its review of problem-solving courts, the subcommittee is exploring how they can be best utilized throughout the Judiciary. The members have a concern about the under-utilization or absence of mental health courts. The subcommittee surveyed judges and magistrates to gauge their awareness of available resources and, based on the responses, determined that there is a need for more effective internal communication to increase the awareness of and provide greater access to resources for those served by the courts. The subcommittee is examining ways to promote rehabilitative services to youth and to expand the age of accountability. Finally, the subcommittee is exploring how to foster a culture of accountability within the Judiciary through a focus on data collection and transparency.

The Community Outreach Subcommittee is outward focused and is working to ensure the public has a better understanding of the courts and to build confidence in the Judiciary. The subcommittee has three goals: organizing community forums in each jurisdiction, developing an advisory board in each jurisdiction, and establishing a community advisory officer in each jurisdiction to serve as the community liaison. To date, four regional work groups have been established to plan the community forums. Work is continuing to establish work groups for Western Maryland and the Eastern Shore. Judge Getty volunteered to assist with the Western Maryland work group. It is planned that the forums will be held via Zoom for Government and will focus on specific issues. The initial forum is expected to begin in June.

The Diversity and Inclusion Education Subcommittee's focus is on how to incorporate diversity and inclusion topics in the Judiciary's retreats, conferences, and meetings; the tools the Judiciary can use to assess the effectiveness of diversity and inclusion education and training; and, forming work groups to address the various tasks. The subcommittee has two work groups, one that is examining how the Judiciary can implement implicit bias testing as a tool, ensuring the testing is not used in human resources evaluations and individual results are not captured, and providing resources and support to help personnel work through the topics and improve their outlook. Judge Wells noted the importance of understanding the reason for taking the test and how to interpret the results. The recommendation was approved by the Committee and was forwarded to the Judicial Council's Education Committee for review. The other work group is focusing on education strategies – how best to determine implementation of education and training topics, which groups should receive the education and training, and the most effective way to build the education and training modules, including videos, podcasts, bench books, etc.

The Operations Subcommittee is tasked with formulating recommendations as they relate to the fair and equitable treatment of people who utilize the services of, conduct business with, or work within the Judiciary. The subcommittee has two work groups, both of whom will use survey results to gauge the opinions of both internal and external individuals regarding the existence of bias in the various facets of the Judiciary. The employee survey has been conducted and the results are being analyzed. The individual responses will be kept confidential. The work of the Public Perceptions Work Group is still under way and a draft survey is under review. The plan is to link the survey to courthouse documents and to post it on bulletin boards in courthouses. Once the results from both surveys are analyzed and recommendations formulated, they will be presented to the Committee and then the Council for consideration.

The Rules Review Subcommittee is working to identify local and Maryland Rules that are perceived to create systemic racism and contribute to implicit bias with the task of then finding ways to address the same. The subcommittee has created three workgroups – Survey Work Group, Report Writing Work Group, and Public Meetings Work Group. As indicated by its name, the Survey Work Group conducted a survey for responders to identify Rules they feel contribute to implicit bias. The work group will collate the data and report to the subcommittee. The Public Meetings Work Group is finalizing plans to hold 11 listening sessions on varying topics covered by the Rules where participants will be given an opportunity to discuss any Rules they find to be problematic. The sessions will be conducted via Zoom for Government and there will only be one topic covered per session, i.e., landlord and tenant Rules. The first session is anticipated to be held in June. The Report Writing Work Group will use the data gathered from the survey and listening sessions to write the report to the Committee which will be presented to the Council and ultimately to the Rules Committee. In addition, the work group has engaged law schools and law clinics in Maryland to have students write memorandums on the Rules they think contain implicit bias. The Report Writing Work Group will incorporate that feedback into the report as well. Judge Wells noted that Professor Nina Chernoff, CUNY School of Law, presented to the subcommittee as well as the Circuit Court Clerks and Court Administrators, proposals to increase diversity in jury pools.

The Sentencing Subcommittee’s purpose is to develop considerations for how judges can improve sentencing to ensure equal justice. The focus areas include, but are not limited to, compiling data, understanding sentencing trends, examining judges’ potential bias, examining judges’ sentencing philosophies, and developing best practices to assist judges in sentencing. To begin its work, the subcommittee surveyed all active and senior trial court judges regarding their sentencing practices and philosophies. The results are being analyzed. In addition, Research and Analysis was tasked with gathering and analyzing sentencing and incarceration data, as well as information on offender scores used when determining sentencing guidelines. Data continue to be collected and analyzed on all incarcerated persons using certain age and offense parameters. The subcommittee also invited several presenters to discuss their work and the impact on sentencing. Representatives from the Justice Policy Institute discussed its report, “Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland;” representatives from the Maryland Commission on Criminal Sentencing Policy discussed data compiled by the Commission; a representative from the Division of Parole and Probation discussed resources, services, and processes regarding probationers; a representative from the Department of Public Safety and Correctional Services discussed educational programs, reentry programs, and services available with the Division of Correction facilities; a representative from Prince George’s County discussed the reentry court; representatives from the Anne Arundel County Crisis Response Team discussed their program and how they interact with the courts; a representative from The Osborne Association discussed family responsibility/family impact statements and the impact of sentencing on children; and, a representative from the Office of Problem-Solving Courts provided an overview of problem-solving courts, eligibility criteria, cultural representation, and equivalent treatment of participants. The subcommittee meets every other week.

Judge Wells remarked that he encourages the subcommittees to work together so as not to duplicate work and so that an overarching plan can be developed.

Chief Judge Barbera thanked Judge Wells for his leadership and for the thorough report, adding that there is a lot of good work going on. She remarked that it is a huge job and the work can be filled with lots of varying points of view.

- c. ***Senior Judges Committee.*** Judge Kenney briefed the Council on the work of the Senior Judges Committee, stating that its focus is to integrate the senior judges into Judiciary operations as seamlessly as possible. He noted that during the pandemic, the number of senior judges sitting decreased; however, some were asked to handle alternative dispute resolution matters in the Court of Special Appeals, resolving approximately 120 cases with a success rate of about 80 percent. On two occasions, the Committee emailed all senior judges to see how they were faring during the pandemic lockdown. In February 2021, the Committee sent a survey to all senior judges regarding the effectiveness of communication through the various means, including the Judiciary's email, the senior judges' webpage, and the Hot Topics newsletter. More than 100 senior judges responded and indicated an overall awareness of and satisfaction with the various modes of communication. The Committee tracked legislation pertinent to senior judges, particularly HB 1335 which addressed eligibility for prescription benefits upon retirement. Judge Kenney noted that the recipient of the 2021 Senior Judge Award, which is awarded in conjunction with the Maryland State Bar Association, was Judge Wilner. Chief Judge Barbera made the announcement during the Judicial Conference and the MSBA will do so at its conference in June.

Chief Judge Barbera thanked Judge Kenney for his presentation and for keeping the senior judges informed throughout the pandemic.

She then remarked about the level of commitment to the work of the Judicial Council displayed by each of its members as well as the committees, subcommittees, and work groups.

## 2. **For the Good of the Order**

Chief Judge Barbera noted that the next meeting of the Judicial Council is scheduled for July 21, 2021, and that barring any unforeseen circumstances, the meeting will be held in person. She then informed everyone that the Council was going into executive session to discuss a confidential matter and, as such, anyone who was not a Council member was asked to leave the meeting.

Following the executive session, the meeting adjourned at 11:59 a.m. The next meeting is scheduled for July 21, 2021, beginning 9:30 a.m.

Respectfully submitted,



Faye Gaskin