



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

Melissa Batie
Chair, Conference of Circuit Court Administrators

Hon. Keith A. Baynes
Vice-Chair, Conference of Circuit Judges

Hon. Pamela J. Brown
District Court in Howard County

Hon. Angela M. Eaves
Circuit Court for Harford County

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

Marina Fevola
Vice-Chair, Conference of Court Administrators

Markisha Gross, Administrative Clerk
District Court in Montgomery County

Hon. Katherine Hager
Vice-Chair, Conference of Circuit Court Clerks

Pamela Harris
State Court Administrator

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

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

Hon. Patricia L. Mitchell
District Court in Montgomery County

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

Hon. Charlene M. Notarcola
Chair, Conference of Circuit Court Clerks

Hon. Laura S. Ripken
Chair, Conference of Circuit Judges

Hon. Bonnie G. Schneider
District Court in Cecil County

Mary K. Smith, Administrative Clerk
District Court

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. Dorothy J. Wilson
Baltimore County District Court

Faye Gaskin, Secretary
(410) 260-1257

MARYLAND JUDICIAL COUNCIL

Meeting Location:
Skype for Business Remote Platform

Minutes
June 11, 2020

Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair
Hon. Keith Baynes
Hon. Pamela J. Brown
Hon. Angela M. Eaves
Hon. Matthew J. Fader
Hon. James Kenney, III
Hon. Karen H. Mason
Hon. Patricia L. Mitchell
Hon. John P. Morrissey
Hon. Laura S. Ripken
Hon. Bonnie G. Schneider

Hon. Alan M. Wilner
Hon. Brett W. Wilson
Hon. Dorothy J. Wilson
Melissa Batie
Marina Fevola
Markisha Gross
Hon. Katherine Hager
Pamela Harris
Hon. Charlene Notarcola
Mary Kay Smith
Roberta L. Warnken

Others Present:

Hon. Fred Hecker
Faye Gaskin
Renee Abbott
Robert Bruchalski
Carole Burkhart
Terri Charles
Lou Gieszl
Nadine Maeser

Kelley O'Connor
Eliana Pangelinan
Suzanne Pelz
Lisa Preston
Suzanne Schneider
Dan Smith
Jason Thomas
Gillian Tonkin

There also were two unidentified individuals on the conference call (410-908-6389 and "Anonymous").

A meeting of the Judicial Council was held Thursday, June 11, 2020, remotely, via Skype for Business. The meeting began at 12:05 p.m. Chief Judge Barbera welcomed everyone, expressing her appreciation for everyone throughout the Judiciary for their hard work under challenging circumstances during the pandemic. She then called for approval of the minutes of the March 11, 2020, meeting. Ms. Harris moved for approval of the minutes, which was seconded by Chief Judge Morrissey. The motion carried.

1. Remote Video Platform

Judge Hecker appeared before the Judicial Council, on behalf of the Court Technology Committee and its Remote Hearings Work Group, seeking approval to move forward with Zoom for Government as the Judiciary's preferred remote video platform. Prior to presenting the recommendations, Judge Hecker thanked Chief Judge Barbera, Judge Ripken, Chief Judge Morrissey, and Ms. Harris for their guidance over the last several months and acknowledged their responsiveness to the needs of the Judiciary. He then thanked JIS and the Remote Hearings Work Group for their efforts in moving the video platform work forward, adding that prior to the pandemic, the Maryland courts used video technology on a limited basis. Over the last three months, however, judges and Judiciary staff became creative and innovative, conducting remote proceedings through a variety of platforms, including teleconferencing. They did so absent any standardized guidelines or best practices.

Skype for Business initially was JIS' recommended platform for a variety of reasons, including the Department of Information Technology's (DoIT) stance against any agency connected to its network, including the Judiciary, using Zoom. The Judiciary complied because of the security risks associated with Zoom. On May 26, after Zoom had addressed security concerns, DoIT approved the Judiciary moving forward with Zoom for Government. JIS had been independently working to obtain Zoom security reports.

The Court Technology Committee formed the Remote Hearings Work Group to review best practices for remote hearings, both within and outside the country. The research resulted in the *Report to Maryland Judiciary Judicial Council on Remote Hearings Proposed Standards and Guidelines* and the recommendations contained therein. The report focuses on two primary areas, technology processes and court business processes. Judge Hecker noted that the best practices outlined in the report are not intended to be mandatory, but rather serve as a guide for courts as they develop processes that best fit their operations. He highlighted some of the features of Zoom for Government around which the best practices and recommendations were formulated, such as waiting rooms that allow for sequestration of witnesses, breakout rooms that allow for private communication between counsel and their client, and functionality to facilitate spoken language interpretation.

Other technology concerns addressed by the work group included connectivity with justice partners and providing access to public hearings. Zoom for Government has the functionality to accomplish those things. The public will be given audio access through their telephones. There is functionality to mute individuals who not are germane to and therefore have no need to speak during the proceedings. The host can mute the phone at the onset of the proceeding. Mr. Thomas responded that the public will be given the i.d. to join the call, but not the passcode. That will prevent them from being able to speak. Additionally, the host will have the ability to mute the participants and they will not be able to unmute themselves. Attorneys, parties, witnesses, etc., will be provided the i.d. and the passcode and will join the proceeding via the Zoom client, giving them full access.

Discussion then moved to business process considerations. Among the issues addressed

were integration with the court's digital recording system and the ability to remove disruptive participants. Zoom for Government integrates with CourtSmart, which is used in 95 percent of the courts in Maryland, so the recording will automatically upload. For courts that use another digital recording platform, there is functionality to manually upload recordings.

The Judicial College is working on a robust training program that will include webinars, quick reference guides, and bench cards. Judge Hecker stated that judges and court users do not have to wait for the formal training to begin using Zoom for Government, however. In addition, a technology webpage has been developed that will contain "how to" links to videos and articles on navigating Zoom.

Jason Thomas stated that Zoom for Government will work with devices on the judge's bench as long as there is a camera and microphone, as well as through the Polycom system. The benefit of using Zoom with the Polycom system is that the recording automatically uploads to CourtSmart. An AV system is not necessary to use the Zoom platform.

Robert Bruchalski stated that next steps include obtaining the licenses, which are expected to be available next week; ensuring that each bench is equipped with Zoom-capable devices; conducting a survey to gather information regarding equipment and training needs; and enabling the webpage. Mr. Bruchalski thanked Judge Hecker for his leadership throughout this effort.

Judge Hecker noted that JIS can include a watermark so that anyone who is a participant will see a message advising that they are prohibited from recording the proceeding.

Judge Ripken moved that the Council recommend to Chief Judge Barbera approval of the recommendation of the Court Technology Committee's Remote Hearings Work Group to adopt Zoom for Government as the Judiciary's remote video platform. Following a second by Judge Mitchell, the motion passed. Chief Judge Barbera adopted the Council's recommendation.

Chief Judge Barbera thanked the work group, noting the work of the committee ensures access to justice and takes the Judiciary into the 21st century with respect to how proceedings can be conducted.

2. eWarrants

Judge Hecker then discussed the DocuSign software which can be used to improve the electronic warrant process. Using the new technology will permit a judge to perform all tasks within Outlook, as opposed to navigating two systems, which is currently required. Judge Hecker stated that the existing system is cumbersome, which may be the reason not all judges have opted to issue eWarrants. DocuSign integrates with Outlook, so judges will be able to accept warrant applications, as well as review, edit, sign, and return them to the law enforcement officer without leaving Outlook. Judges also will be able to edit documents, as necessary, on other devices, such as cellphones and iPads. Transmission of the documents will be secure.

The policy changes reflected in the *First Amended Court Technology Committee Report to the Judicial Council Regarding Electronic Search Warrant and Search Warrant Return Procedure* include authorizing the transmission of warrant applications in Microsoft Word format rather than requiring submission via Adobe Portable Document Format (PDF) and allowing law enforcement officers to email applications through Outlook as opposed to requiring a password or credentials to submit the document. Judge Hecker stated that when the judge signs the warrants and emails it to the officer, it automatically converts to a PDF that cannot be edited.

Judge Hecker noted that the hard copy of the executed warrant will still have to be transmitted to and filed in the clerk's office as there currently is no authorization in the Rules for electronic or digital transmission. Transition to the new software should require minimal training; law enforcement officers will be instructed to send the document via email. The judge can use his or her own email or set up an email account to receive and transmit the documents. Finally, the Adobe e-Sign process will be available through the end of the year, so judges can elect to use either process until then.

Judge Wilner asked if the new policy requires changes to Rule 4-601 and if it is applicable to other types of investigative or pre-charge orders, such as pen registers, wiretaps, and emergency orders for HIV testing. Judge Hecker stated that there should not be any Rules changes required and that the policy is applicable to other types of orders.

Judge Eaves moved that the Council recommend to Chief Judge Barbera approval of the *First Amended Court Technology Committee Report to the Judicial Council Regarding Electronic Search Warrant and Search Warrant Return Procedure*. Following a second by Judge Brown, the motion passed. Chief Judge Barbera adopted the Council's recommendation.

Judge Hecker noted that he included a proposed order for the Court of Appeals' consideration. Chief Judge Barbera will discuss the proposed order with the Court and report back to the Council at its next meeting.

Chief Judge Barbera acknowledged the work of the Court Technology Committee, noting that the changes will improve the efficiency and effectiveness of the eWarrant process.

Judge Brown offered kudos to the Committee and to Judge Hecker for his assistance. Ms. Harris thanked Judge Hecker, the Committee, and JIS for their responsiveness in moving the project to fruition. She also expressed her appreciation to JIS for the manner in which they have supported the entire Judiciary during the pandemic.

Chief Judge Barbera conveyed pride in how the different components of the Judiciary have responded to the Covid-19 emergency. She added that everyone has performed remarkably under trying circumstances and have thought anew about how to move forward in changing times.

3. New Judicial Council Committee

Chief Judge Barbera announced the creation of the Judicial Council's Committee on Equal Justice whose work will be essential to affirming the integrity of the Judicial Branch. She acknowledged the great work that has, and continues, to be done, but stressed the need to continue to build on that work and to ensure that it reflects on all the people served. The Committee, along with its subcommittees and work groups will formulate recommendations regarding strategies to educate and undo discriminatory behaviors wherever they may exist in all Judiciary operations and will be both internally and externally focused. Chief Judge Barbera expects to finalize the membership within the next week or so, noting that the subcommittees and work groups will provide those interested an opportunity to get involved, noting limitation on the number of committee members.

There being no further business, the meeting adjourned at 1:12 p.m. The next meeting is scheduled for September 23, 2020, beginning 9:30 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Faye Gaskin". The signature is written in black ink and is positioned above the printed name.

Faye Gaskin
