

# THE BALTIMORE CITY CRIMINAL JUSTICE COORDINATING COUNCIL

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## MINUTES FROM THE APRIL 9, 2014 MEETING

**Council Members In Attendance\*:** Chair Judge Barry Williams; Mary Abrams, District Court; Warren S. Alperstein, Bar Association of Baltimore; Kimberly Barranco, CJCC Executive Director; Commissioner Anthony Batts, Baltimore Police Department; Gregg Bernstein, State's Attorney; Tammy M. Brown, Governor's Office; Joe Clocker, Director, Community Supervision, Department of Public Safety and Correctional Services; Frank Conaway, Circuit Court Clerk; Wendell M. France, Director, Central Region, Department of Public Safety and Correctional Services; Gregg Hershberger, Secretary, Department of Public Safety and Correctional Services; Elizabeth Julian, District Public Defender; Kara Kunst for Bernard C. "Jack" Young, President, Baltimore City Council; Rod Rosenstein, U.S. Attorney; Major Sabrina Tapp-Harper for Sheriff John Anderson, Sheriff's Office; Crista Taylor for Bernard J. McBride, President, Behavioral Health System Baltimore; Betsy Fox Tolentino for Secretary Sam Abed, Department of Juvenile Services; Carrie Williams for Attorney General Doug Gansler.

**Others in Attendance\*:** Margaret Boyd-Anderson, CJCC; Cristie Cole, SAO; Natalie Finegar, OPD; Deirdre Gardner, MCVRC; Justin George, *The Baltimore Sun*; Judge John M. Glynn; Michael Hanlon, USAO; Don Leatherwood, DPSCS; Linda Lewis, District Court Commissioners; Judge Keith Mathews; Bob Weisengoff, DPSCS; Kate Wolfson, Safe and Sound Campaign; Stephanie Young-Medina, Circuit Court.

**\*We request that all in attendance sign the attendance sheet which is available at each meeting.**

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## MEETING DIALOGUE

The meeting was called to order at 12:30 p.m. and Judge Barry Williams greeted the Council.

### **I. CHAIR'S REPORT – JUDGE BARRY WILLIAMS**

Judge Williams requested a motion to approve the February 12, 2014 meeting minutes and they were adopted unanimously. He advised that the next meeting will be held on May 14, 2014 at which time Committee members will provide legislative updates.

### **II. EXECUTIVE DIRECTOR'S REPORT – KIMBERLY SMALKIN BARRANCO**

Kimberly Barranco announced that the next Circuit Court Adult Drug Treatment Court Graduation Ceremony will be held on Friday, May 2, 2014 at 9:30 a.m. in Courtroom 234 of Courthouse East. She stated that a number of CJCC members attend the drug court graduation ceremony regularly, and encouraged members who have not attended in the past to attend if their schedules allowed. Ms. Barranco advised that a memo with information regarding the ceremony was provided in the meeting packets.

Ms. Barranco reported that in an effort to ensure that Baltimore City is prepared to meet the challenges inherent in implementing the mandate of the *Richmond* decision, she coordinated a number of meetings to work out many details with representatives from agencies who are

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directly involved in the booking and initial appearances process. She advised that a protocol was established and agreed upon by the parties which will allow court appointed private counsel to confer with their clients in dedicated interview rooms prior to the initial appearance and to receive charging documents and related information as well as to appear with their clients at the initial appearance before the Commissioner.

Ms. Barranco stated that there is still uncertainty as to when this protocol will need to take effect. She said that further oral argument as to what revisions to the injunction should be made by the Court of Appeals is scheduled for May 6, 2014 and the stay is in effect until June 5, 2014 at 4:30 p.m., at which time it could be extended or implementation would be required to begin. Ms. Barranco stated that in light of the legislative action to designate ten million dollars statewide for the appointment of private counsel by the Court, she anticipates further meetings in the coming weeks to refine the protocol. She advised that the protocol was established by the *Richmond* workgroup which is comprised of representatives from the Department of Public Safety and Correctional Services, the Office of the Public Defender, the State's Attorney's Office, the Baltimore Police Department, the Court Commissioners, the Baltimore City Bar Association, and the Judiciary. Ms. Barranco acknowledged the hard work of these Council members and their representatives to be prepared for implementation of the right to counsel and stated she is extremely proud of the work that has been accomplished to date by cooperatively working together. She said that they will continue their collaborative efforts to ensure that Baltimore City will be prepared at the appropriate time.

Tammy Brown stated that the Governor's Office intends to continue the progressive reforms spearheaded by Senator Frosh in SB 973 which would have provided for a risk assessment to be used to make pretrial release decisions and make the process more efficient. She reported that Governor Martin O'Malley will issue an Executive Order which will outline those aspects of the Governor's proposal which do not require legislative action. Ms. Brown reported that the Governor's Office received support from the State's Attorney's Office, the Office of the Public Defender, and MACO for their proposal, and although the legislature did not embrace these reforms they do not intend to stop their efforts. She stated that they will provide technical assistance and continue to work with their partners to move forward. Clerk Frank Conaway asked how *Richmond* will level the playing field. Judge Williams responded that it is not a matter of leveling the playing field but rather to make sure that defendants have representation.

### **III. CENTRAL REGION REPORT – WENDELL M. FRANCE, DIRECTOR,**

#### **CENTRAL REGION, DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**

Mr. France advised that a copy of the Central Region Statistics Report was provided in the meeting packets for the Council's review and stated he would answer any questions the Council may have about the report. Judge Williams reminded Council members that last year Mr. France approached the CJCC with his concerns about pretrial detainees. He advised that the Court looked at the issue and created the Pretrial Detainee Initiative to address the oldest cases. Judge Williams reported that of 21 defendants who qualified to participate and attended a conference, four defendants pled guilty and twelve defendants had their cases specially set

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with a definite firm trial date. He advised that progress has been made and the Court will continue to make efforts to reduce the number of individuals detained for a lengthy period of time.

#### **IV. DISTRICT COURT CLERK'S OFFICE REPORT – MARY ABRAMS, ADMINISTRATIVE CLERK**

Mary Abrams reported that the Governor made five appointments to the District Court in late February and that the new judges are in training and investiture ceremonies have been scheduled. She said that they are excited to welcome persons of such high stature to the bench of the District Court. Ms. Abrams provided the results of the District Court's Fiscal Year 2013 Caseflow Assessment and said that the court accepted more than 344,000 filings in FY 2013 compared to 323,000 filings in FY 2012. She reported that on average 95% of all criminal filings were processed within the time standards, 89% of all civil filings were processed within the time standards, and 81% of all motor vehicle cases were processed within time standards. Ms. Abrams further reported that during the study period District One experienced a shortage of four to five judges due to retirement, elevation and medical leave. She said that four vacancies were not filled until late September 2013 and they did not begin to hear cases until the November schedule. She stated that judicial vacancies have an impact on the courts ability to schedule and process cases timely.

Ms. Abrams also provided an update on the status of the implementation of the MDEC system. She referred members to a handout which included an article with Chief Judge Ben Clyburn discussing MDEC as well as a guide to e-filing. She stated that MDEC will provide for e-filing of all court documents and it will be mandatory for all attorneys. She said that a policy and procedure manual was currently being developed for users. Ms. Abrams also reported that the pilot for the new system will go live in Anne Arundel County in October 2014 with plans to have the system in place on the Eastern Shore six months later, and then implemented every six months thereafter in new areas across the state. She advised that the Court is looking at all forms, rules, and policies to make sure that they are adequate and in place for the roll-out. Ms. Abrams suggested that Council members visit the judiciary website to obtain further information. Judge Williams thanked Ms. Abrams for her report and introduced former CJCC Chair Judge John M. Glynn and former Administrative District Court Judge Keith Mathews, Co-Chairs of the Post-Arrest Practices Committee.

#### **V. COMMITTEE REPORT – THE POST-ARREST PRACTICES COMMITTEE – JUDGE JOHN M. GLYNN AND JUDGE KEITH MATHEWS, CO-CHAIRS**

Judge Keith Mathews reported that the Post-Arrest Practices Committee was formed in November 2010 by then CJCC Chair Judge M. Brooke Murdock to study and address issues regarding bail, pretrial release, and other post-arrest concerns. He stated that he serves as Co-Chair along with Judge John M. Glynn, and announced that the Committee members are Kimberly Smalkin Barranco, CJCC; Margaret L. Boyd-Anderson, CJCC; Mary Denise Davis, Office of the Public Defender; Patricia Deros, Office of the State's Attorney; Elizabeth Embry, Office of the State's Attorney; Linda Lewis, Court Commissioner; Patrick Motsay, Office of the State's Attorney; Joshua Treem, Esq., private defense bar; and Robert Weisengoff, Department of Public Safety and Correctional Services. Judge Mathews said

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that until his recent appointment to the bench, Jim Green also was a committee member, representing the Baltimore Police Department. He thanked the Council members for the terrific work that their representatives to the Committee are doing.

Judge Glynn stated that from November 2010 through June 2012, the Committee investigated and discussed suggestions to shorten pre-trial incarceration time and promulgated a report with recommendations which was presented to the Council in July 2012. Judge Glynn said since that time the Committee has met bi-monthly to address implementation of the recommendations and has continued to identify system wide gaps and deficiencies and suggest improvements to the post-arrest process. He further stated that a significant amount of the Committee's time has been utilized to address implementation of the *Richmond* mandate for state furnished counsel at initial appearances and that a *Richmond* workgroup was formed and has met several times this fall to discuss the issues and map out agreed upon protocols and a process workflow chart.

Judge Glynn reported that the workgroup discussed and resolved many issues to accommodate the mandates of the *Richmond* decision, including the use of state furnished counsel, placement of defense counsel in the booking queue, advice of rights, and the interview process; mental health issues and factors leading to bedside commitments; handling cases of defendants released prior to the initial appearance; handling cases when the Commissioner has no authority to set bail; the flow of information between the parties, including when and how defense counsel will receive bail recommendations from the SAO, rap sheets from Pretrial, and the statement of charges; handling cases based upon arrest warrants and handwritten statements of charges; handling RWOCs and release to citation cases; entrance of appearance; presentment for advice of rights and probable cause determination; differences in protocol for Assistant Public Defenders and private appointed counsel including entrance to the facility, use of interview booths, and notification of the booking queue; physical location of defense counsel during the interview and initial appearance and concerns for defense counsel's physical safety; video conferencing as an alternative to physical presence; time delays in having counsel appear at the initial appearance and the need for temporary commitments; and the Circuit Court initial appearance process. He stated that he was very impressed with the hard work of everyone to resolve these issues. Judge Glynn said that the practices and protocols discussed and agreed upon will be evaluated and modified as needed, and the Committee and workgroup will assist with the implementation of any changes to the present processes.

He advised that in addition to preparing for the mandate of *Richmond*, the Committee continued to work on advancing its recommendations. He reminded the Council that in the 2012 report, the Committee recommended that the court clerks check VINE for a defendant's location prior to the Court issuing a bench warrant for failing to appear, and that the OPD and SAO should be encouraged to check their dockets to verify defendant location. Judge Glynn reported that the District Court has adopted this recommendation and the Committee will review data to determine if this protocol has had an impact on reducing the number of FTA warrants issued for defendants who are in custody.

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Judge Glynn stated that when preparing its report the Committee learned that approximately one quarter of the pretrial population was comprised of homeless and transient defendants, and in an effort to reduce this segment of the pretrial population, Committee members worked with homeless service providers to establish a Docket for Homeless Persons through the ER Court. He reported that referrals are made through the 90 day pretrial diversion program and offenders are placed on a specialized “homeless docket”. He said this docket allows service providers an opportunity to help transient and homeless defendants by offering individualized treatment plans and that the services provided are making an impact.

Judge Glynn reported the Committee also recommended that continuing education on pretrial release and MD Rule 4-216 regarding conditions which may be set should be provided for judges. Judge Glynn said Co-Chair Judge Keith Mathews contacted Judge Patty Lewis about the Committee’s recommendation, and she agreed to add information about bail reviews to the Baby Judge School curriculum. He further stated the Committee also monitored the process of converting statements of charges to citations to determine its effect on reducing the pre-trial population.

Judge Glynn advised that moving forward, the Post-Arrest Practices Committee will continue to address the challenges created by the *Richmond* decision as well as further implementation of the Committee’s recommendations, and will encourage stakeholders to continue to work collaboratively on solutions to shared concerns. Judge Williams thanked Judge Glynn and Judge Mathews for their work with the Committee and their report.

### **VI. PRESENTATION ON THE BALTIMORE POLICE DEPARTMENT STRATEGIC PLAN – COMMISSIONER ANTHONY BATTS**

Commissioner Batts gave a PowerPoint presentation on Public Safety in the City of Baltimore: A Strategic Plan for Improvement. He explained that the Strategic Plan is built upon five pillars. Pillar 1 identifies how the Baltimore Police Department will reduce crime throughout the City by targeting gangs, guns, violent repeat offenders, and the conditions that allow crime to flourish. He stated that in building upon this pillar they will focus on the Violent Repeat Offender (VRO) program, the Ceasefire program, and a Gang & Violent Organization Strategy which includes 17 zones, 10 level wave responses, and state and federal covert operations. He noted that these strategies are in writing so that every member of the Department understands the plan. Commissioner Batts explained that the BPD previously had four zones, but he has expanded the concept to 17 zones and they are starting to see dramatic reductions with this focused priority approach. He further explained that officers and staff are assigned to part of a district and they now have ownership of that area and will be held accountable. Commissioner Batts also advised that intelligence is the cornerstone of the plan and that they will get ahead of the violence when they know what is going to take place in advance through intelligence resources. He thanked Rod Rosenstein and Gregg Bernstein for being outstanding partners in their efforts.

Commissioner Batts reported that Pillar 2 of the strategic plan states that BPD will develop and maintain relationships of trust with all members of the Baltimore community and will

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work collaboratively with other organizations to solve community problems. He further reported that this pillar focuses on victim sensitivity training; impartiality, legitimacy, and procedural justice; and the “Take Back Public Spaces” initiative. He stated that he is trying to refocus the organization on outcomes and community expectations and impressions. He said that the Take Back Public Spaces initiative was piloted at Lexington Market and crime was reduced 35% - 40%. Commissioner Batts explained that Pillar 3 of the plan states that the BPD will bolster support systems to strengthen data quality and improve information sharing to provide actionable and timely intelligence and support field operations, and that they are looking at grants and working with the Governor’s Office on updating technologies. He said that these are ongoing efforts which will involve providing tablets for all officers and automating functions. He noted that although Baltimore is lagging behind in this area compared to other cities, he is confident that they will catch up.

Commissioner Batts stated that Pillar 4 calls for the BPD to be an organization that maintains the highest standards of ethics, integrity, and accountability. He explained that in the past officers were held accountable but not their superiors, but that moving forward, he is making sure that leadership is accountable for their subordinates. Commissioner Batts noted that there has been a 34% reduction in citizen complaints and that they are making every effort to root out the problems. He advised that Pillar 5 calls for the BPD to be a learning organization that is capable of acting with expertise in all areas of law enforcement. He stated that to achieve that result, they are focusing on their academy and in-service community policing program, field training program, reality-based scenario training, and foot pursuit training/felony car stop training. Commissioner Batts also stated that they are focusing on making areas identified by their customer base better. He explained that the agency needs to be re-calibrated to meet community expectations, and that a 2012 citizen survey shows that their customer base is not satisfied. He said that the community wants the department to focus on violent crime, emergency responses, gang activity, and property crimes, and that they are doing so. He also noted that 91% of BPD employees believe morale is low, and that he has to give officers and staff the equipment they need and that promotions and discipline need to be fair. He acknowledged that the department has a way to go to shift the culture but he is committed to making it happen.

Commissioner Batts advised that a copy of the Police Commissioner’s report was provided in the meeting packets for the Council’s review. He stated that homicides are down 16% year to date and non-fatal shootings are down 9% year to date. He noted that auto thefts are up and that Dodge products and older model Hondas are being targeted. Ms. Brown commended Commissioner Batts for the department’s recent assistance to DPSCS regarding locating individuals with parole retake warrants. She advised that they have apprehended 39 of the 65 individuals sought and she thanked him for his assistance.

Judge Williams concluded the meeting by thanking the SAO, the OPD, and the defense bar for their cooperation with the Pretrial Detention Initiative. He also thanked Secretary Gregg Hershberger, Danny McCoy, and Sgt. Green from DPSCS for their assistance and for transporting the defendants for the initiative.

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Judge Williams adjourned the meeting at 1:25 p.m. The next meeting will be held on Wednesday, May 14, 2014 at 12:30 p.m., Courthouse East, Room 510.

**MEETING HANDOUTS**

- 1) Minutes from the February 12, 2014 meeting
- 2) Central Region Statistics Report
- 3) The Police Commissioner's Report
- 4) District Court Clerk's Office Report
- 5) Baltimore Police Department's PowerPoint Presentation

*Respectfully submitted,*

Kimberly Smalkin Barranco  
Executive Director