

Board of Judicial Policy and Administration  
Minutes  
March 22, 2006

The Board of Judicial Policy and Administration met in Casper on March 22, 2006. Justice Michael Golden, Judge Jeff Donnell, Judge John Perry, Judge John Brooks, Judge Mike Huber, Judge Bob Skar and Ronda Munger were present. Chief Justice William Hill, Justice Marilyn Kite, Judge Terry Tharp and Holly Hansen participated by telephone. Throughout the course of the meeting the following individuals attended at some point by phone: Joann Stockdale and Jim Bivona.

**OLD BUSINESS**

**LEGISLATIVE UPDATE** -- Joann Stockdale reported to the Board regarding the budget session. She reported that the courts had a successful budget session. The Supreme Court received another clerk position in the Clerk of Court's Office because of the future installation of E-Filing and Case Management System. The Legislature put in all of the funding, \$4.2 million, to pay off the unfunded liability for the new judicial retirement account. The Supreme Court received five positions in the IT office. Funds were received for pay increases for judicial employees and judges.

Holly Hansen reported on the Circuit Court Digital Recording Equipment funding request. The budget request for this equipment was funded and work will begin on this project soon. The Case Management System/E-Filing system for the Supreme Court was also funded, including personnel costs.

Holly Hansen reported on the judicial retirement amendment, which clarified that the retirement plan in Title 5 only applied to district court judges and supreme court justices who were appointed prior to July 1, 1998. Discussion occurred concerning the Wyoming State Bar Association's survey relating to the willingness of attorneys to apply for judicial positions. Justice Kite informed the Board that this survey was at her request and initiation and in coordination with the judicial retirement subcommittee, and that the judicial retirement subcommittee learned, on doing the report to the Joint Judiciary Committee, that the majority of attorneys who apply for judicial positions are in their late 40's and the majority retire at about age 64.

Holly Hansen reported on the amendment to the mental competency evaluations statute, Wyo. Stat. Ann. § 7-11-303, which was passed by the legislature. This amendment clarifies that the state hospital is only required to render an opinion on the mental competency of a defendant at the time of alleged criminal conduct, if requested to do so by the court.

Holly Hansen reported on adopted legislation that allows part-time magistrates to reside outside the county but within the judicial district, providing for larger pools for attorneys to serve as part-time magistrates.

Holly Hansen reported on adopted legislation concerning protection orders. The new language gives the judge permission to grant protection orders not to exceed one year and

includes language allowing either party to move to modify, terminate or extend the order. This amendment goes into effect July 1, 2006.

Holly Hansen reported on the bill concerning the interbranch donations of sick leave, which now allows for an employee of one branch of government to donate sick leave to an employee in another branch of government. The original introduced bill was amended to include all employees of entities participating in the state health insurance program, if authorized by reciprocal personnel policies adopted by appropriate entities. Holly will be working on the amending language of personnel policies for the Supreme Court and Circuit Courts and suggested that if the district court judges have the desire for their employees to participate in this program, they will need to have appropriate personnel policies implemented. Judge Perry said that issue will be added to the district courts' agenda for their April meeting.

Holly Hansen reported on the Interim Study Topics of which there were two taken to the Joint Judiciary Committee. The first topic was judicial retirement, which encompassed a detailed report that the judicial retirement committee put together and which included a recommendation concerning the early retirement issue and outlined a couple of topics the retirement committee wanted the Joint Judiciary Committee to do interim work on. The other topic was court security, in which a task force was created by the Board back in December. The Joint Judiciary Committee decided to take a variety of topics and assign liaisons to work with committees that are already established. Therefore, members from the Joint Judiciary Committee will be assigned to work with the Judicial Retirement Committee and Court Security Task Force. At the time of this meeting, no liaisons had yet been designated.

Discussion was also held regarding e-filing and whether that would be only for the Supreme Court or if it would encompass other courts as well. Holly commented that at this time the thought was that the first component of the package would be the Case Management System for the Supreme Court; the second component would be e-filing for the Supreme Court; and the third component would be e-filing for trial courts. It was asked if the funding was only for the Supreme Court and Holly stated that a large part of the funding was for the Case Management System and a small amount of the money was for consultant services to help with e-filing in both the Supreme Court and trial courts, but not to purchase an e-filing package.

#### **COMMITTEE UPDATES**

**Retirement Committee** – Justice Kite reported that the Retirement Committee report which was prepared for the Joint Judiciary Committee had been circulated to all judges. Justice Kite commented that the report contained a good history of the judicial retirement system and captures why there is a problem. She explained that the legislature was reluctant to fund the system in the first place and when they did they tried to make it self supporting, which made it unfair to anyone taking early retirement. It will be very expensive to fix. The committee made the decision to recommend to the legislature to present the best plan from the judges' standpoint. If successful, it will essentially result in judges' retirement pensions being reduced by five percent from age 70 in an even fashion. The old system was causing judges who were ready to retire to stay because of the unfairness of the old system. The new system will encourage attorneys to apply for judgeships in the prime of their careers and will let them retire when they are ready to

retire. Justice Kite commented that the legislature has made a big investment in the judicial retirement system. The committee has not finished their work on the senior judge status program and what is to be recommended. They are looking at senior status programs of several other states. Holly Hansen reported that when judicial retirement was discussed at the Judiciary Committee meeting and liaisons were discussed, Ed Buchannan, Deb Alden, and Jack Landon were all interested in being liaisons. Mr. Landon currently serves as the legislative liaison for the Wyoming Retirement System. Holly indicated that she would be in touch with Jack Landon soon to see if the liaisons had been appointed, and also indicated that the committee needed to be ready to make its presentation to the Judiciary Committee in May.

**JTTF** - Jim Bivona made a presentation to the Board on behalf of the JTTF. The first item discussed was court reporter technical support. In the past, the IT staff has had to provide technical support to court reporters and have run into difficulties because court reporters aren't required to purchase standard hardware or software. Court reporters use their personal computers and want to hook up to the Courts' network, and IT has no control over the computers or how they are configured, any virus protection, etc. The IT office would like to work with the Board or the district court judges to address this issue. Discussion was held and it was indicated that at the district judges' conference, the district judges said they would not provide any equipment for court reporters. It was also suggested that limits be set on support because court reporters are not part of the courts' system.

The next item Jim discussed concerned information sharing with the clerks of district courts. His staff is gathering data from the clerks of district courts data bases around the state. He wants this data compiled at the court data warehouse in order to provide a meaningful information source for other criminal justice agencies across the state. Problems have arisen because the vendors do not want to allow IT access to the technical parameters of the systems, which means that IT is not able to reach into the systems locally and retrieve the data. This created a need for a memorandum of understanding (MOU) giving the clerks of district court assurance that the data will not be misused and giving the vendors assurance that their customers have agreed to give IT access to their systems. Jim talked with the district court clerks back in November, in which the clerks raised several issues they wanted addressed in the MOU. Jim indicated he would like to retrieve as much information as possible, including both criminal and civil, criminal juvenile, but would not need access to mental health and probate data. After visiting with Jim, the clerks discussed the issues with their judges. The Laramie County District Attorney's Office sent a draft MOU to IT. Jim took that draft and revised it according to his discussions with the clerks of district court. He provided that draft to the clerks at their meeting in Cheyenne and is planning to coordinate conference calls in the future to discuss the MOU.

Jim Bivona then discussed the JFFT itself. He discussed getting the task force back to basics now that the Wyoming Criminal Justice Information System (WyCJIS) has been launched and maintained by the Attorney General's Office. This project was accomplished by the task force and now that it has been handed off to the AG's office, the task force needs to look at what it will be doing next. Holly Hansen indicated that Jim Wilson from DCI and Jim Bivona will be setting up a demonstration of WyCJIS for the Board at the June meeting. This demonstration was also shown to a joint meeting of

the Judiciary and Appropriations committee in November. The next tentative meeting date of the JFFT is April 19, 2006, in Casper.

Jim next discussed the rewriting of grant submittal procedures. Gerry Bishop's grant request from Laramie County was the last grant considered by the Board. At that time the process of how grants came before the Board came into question. Jim indicated that it was his understanding that the Board was comfortable with the JTTF's recommendation of those grants and presenting those grants to the Board rather than have the local agencies being responsible for submitting the grants. Jim indicated this has caused the JTTF to get off track with long term goals with having a state-wide integrated system for courts. Grant guidelines will be discussed at the next JTTF meeting, specifically two documents. The first document, a proposal document, would be a concise one page summary of a proposed project. Task force members will be asked to solicit input from local agencies to try to gain insight to the type of project that might be feasible. The Task Force will then put together the next document, called a business case that would capture the particulars of the project, including costs, time, resources, etc., which would then be presented to the Board.

**E-Filing Committee** – Holly Hansen discussed the E-Filing Committee and its purpose to focus on e-filing in the trial courts, not the Supreme Court. The committee's first meeting is scheduled for May 3, 2006. The committee will be chaired by Justice Barton Voigt. Other committee members are Judy Pacheco, Judge Arnold, Judge Skar, Clerk of Platte County District Court Susan Artery, Chief Clerk of Carbon County Circuit Court Laurretta Sheller; State Bar representatives Kristin Lee of Qwest, Larry Wolfe of Holland & Hart, Joe Bluemell, and Phil Willoughby; Melissa Swearingen from the Attorney General's Office; Terry Rogers from the Public Defender's Office; Rick Fortney, IT manager for Laramie County; Beth Connolly, IT manager and CIO for U.S. District Court in Wyoming; Senator Phil Nicholas, Jim Bivona, and Holly Hansen. Money was provided by the legislature to obtain consulting services to aid the e-filing project. Initial contact has been made with Susan Larson, a consultant who specializes in e-filing and public access to court records. She will be at the first committee meeting in May and will give the members a perspective of what has occurred in other states with e-filing.

**Court Security Taskforce** – Judge Donnell reported that the taskforce members are Chief Justice Hill, Holly Hansen, two district court judges, two circuit court judges, three sheriffs, the Executive Director of the Wyoming Sheriff's Association, the Executive Director of the Wyoming Association of Municipalities, the Director of the County Commissioners Association (Joe Evans), the Director of Homeland Security, a member of the Highway Patrol, a member of the State Bar, and member of the U.S. Marshall's office. They have met twice and sent out a survey last month to try to identify what kind of security courts have around the State and what are some of the issues that appear to be problematic. The results indicated that in most courts there is no security, and security issues that were raised were the lack of money, lack of personnel, and lack of training. The next meeting is scheduled in May. At that time the task force will talk about whether to make a recommendation on minimum standards and a legislative scheme for implementation. Two subcommittees have been formed to work on both of those issues. Holly mentioned that she is trying to get a member of the task force on the agenda of the county commissioners' meeting in April.

## **NEW BUSINESS**

**SMALL CLAIMS CASES** – Judge Tharp discussed the statutes on procedures for small claims and the fact that in § 1-21-203 there is a sentence that directs the circuit judge to prepare for a claimant the affidavit for a small claims action. Judge Tharp believes this sentence needs to be removed. Discussion was held and it was moved by Judge Tharp that the Board take all steps necessary to request legislative action removing that phrase from the statute. It was seconded. No further discussion was held, a vote was taken, the motion passed. Holly Hansen will write a letter to Senator Haynes and Representative Landon and attach draft legislation. Discussion was held as to whether they wanted new language inserted or just the offending language deleted. It was decided to just delete the offending language.

**THIRD CIRCUIT JUDGE IN CAMPBELL COUNTY** – Judge Tharp discussed the increased growth and new construction projects in Campbell County, how full the court dockets have become, that magistrates are being utilized as much as possible, and one new clerk has been added. Judge Tharp would like the Board to make a recommendation that a third circuit judge be added in Gillette. There is room for a new courtroom in the Campbell County courthouse, and the County Commissioners have assured Judge Tharp that if a new judge was appointed, they would build the new courtroom. Discussion was held concerning the fact that the numbers of court cases have actually dropped. The Weighted Case Load Study was mentioned and Chief Justice Hill indicated that the case load study needed to be brought up to date. Chief Justice Hill suggested that attention be focused first on bringing the case load study up to date in the Sixth Judicial District and table the issue of an additional circuit court judge until at the earliest June, or at the latest September. After discussion concerning the Weighted Case Load Study and whether a whole new study needed to be done, it was agreed upon by the Board to update the study and keep this item on the agenda for the next two meetings, discussing it in June with the idea that the Board would take action on it in September.

**JUDICIAL PAY RAISE** -- Holly Hansen reminded everyone that the judicial pay raise that was just passed by the legislature was included as a Section 300 in the appropriations bill, which she believes is the first time this has ever occurred, meaning that during the 2007 legislative session, a judicial salary bill is going to have to be introduced and passed so that the statute will be amended to reflect the salary levels that have been authorized. Right now, those salary levels will disappear at the end of the 2007-2008 biennium. This also means that in 2008 they will need to ask for another bill to be introduced. Judge Perry discussed Wyo. Stat. Ann. § 8-1-103, rules of construction for statutes. He also mentioned his discussions with various legislators about needing to work on a plan that will prevent the Board from going to the legislature year after year on this issue.

Board Adjourned

### **Schedule of Future Meetings**

June 1, 2006	Douglas
September 15, 2006	Laramie
December 1, 2006	Cheyenne

Approved by email May 22, 2006