

Board of Judicial Policy and Administration

Minutes

June 1, 2011

The Board of Judicial Policy and Administration met in Cheyenne on June 1, 2011. In attendance in person were Justice William Hill, Judge Tom Campbell, Joann Odendahl and Becky Craig. Those in attendance by video conference or by phone were Chief Justice Marilyn Kite, Justice Michael Golden, Judge John Brooks, Judge Dan Forgey, Judge Robert Castor, Judge Dan Price, Judge Jeffrey Donnell, Judge John Fenn, Judge Norman Young and Judge Keith Kautz.

Old Business

Committee Updates

Court Security Commission – Justice Hill reported that Governor Mead appointed Guy Cameron as the head of the Office of Homeland Security. There is a meeting planned on June 24th to bring Director Cameron up-to-date. Joann Odendahl explained that all of commission members' terms expire on June 30th. The new appointees from the Governor's Office are not known as yet, however, in the judiciary, Justice Hill's, Judge Donnell's and Judge Nau's terms expire. Justice Hill and Judge Donnell volunteered to serve an additional term, and Judge Nau will be asked if she would be willing to serve another term as well. Joann Odendahl explained that in the previous biennium there had been an amendment to the Office of Homeland Security's budget to have \$100,000 set aside in a contingency fund for county governments to use to provide security for high profile cases. The amendment ultimately failed. The Board discussed whether this is something that should be put into the Supreme Court's budget, under the program of the Board of Judicial Policy and Administration, and earmarked for security purposes. These funds would revert back to the General Fund if they are not used. Before Board action is taken, Director Cameron will be asked if his office is interested in this being done.

Access to Justice Commission – Chief Justice Kite commented that the Access to Justice Commission has not been as active in recent months since the focus has been on development of the Wyoming Center for Legal Aid. She reported that the Center has an excellent initial Board of Commissioners in place that consists of Pat Day, Stuart Day, Chris Reimer, Rae Lynn Job, Ray Fleming Dinneen, Mark Aronowitz and Leigh Anne Manlove, with Joann Odendahl and Walter Eggers as ex-officio members. The Center has decided to hire a temporary staff attorney to help with the mechanics of the organizational structure. The staff attorney may eventually become the executive director, or there may be a national search conducted to fill that position. The website should be operational by the middle of June, and will be the main intake for people needing assistance with civil litigation. It will contain the contact information for the service agencies and will also provide various pro se forms. As progress is made, additional forms will be added for family law issues, basic civil issues, wills, trusts, etc. Joann explained that the funds from the sale of pro se packets are being used to contract with Attorney Amanda Roberts to update the forms and to develop automated forms.

Rule 1 Initiative

Chief Justice Kite explained that the Judiciary Committee continues to request status reports on the Rule 1 Initiative, and that the committee was pleased to learn that a great deal of progress has been made with the Circuit Court Rules. There is a meeting scheduled in August to which the district court judges and circuit court judges are welcome to attend. Judge Young informed the Board that there is presently nothing new to report, and that he and Judge Tyler will continue to work on this project. Chief Justice Kite suggested that the Rule 1 Initiative Committee might look at enlisting the help of a Jackson attorney, since Teton County seems to represent a sort of microcosm of all of the problems that exist in civil litigation. Judge Young will contact Judge Day to look into this.

Domestic Relations Committee

Judge Kautz reported that his committee, which consists of 18 attorneys and 8 judges, has been instructed to identify ways that domestic relations litigation can be accomplished in a more timely and less expensive manner. The committee obtained comments from its members on what they view as problems in these areas. The results showed three situations that had not been anticipated: 1) that the majority of the comments were not related to timeliness or costs of litigation at all, but instead were more conceptual. Some argued that there shouldn't even be an adversarial process for domestic relations litigation, but instead some other type of process; 2) the survey that was presented last year indicated that there were problems with timeliness and costs, however, not a single comment from the members pointed out anything in the Rules or Statutes that was perceived to result in excessive delays or costs; and 3) most of the responses about time or costs were anecdotal, with the observations being difficult to verify or quantify. Judge Kautz explained that the ABA study that was completed in Laramie County last Fall did not identify any timeliness problems in getting civil cases completed. He believes that the committee should verify where the problems actually exist and then proceed to work on remedies, rather than making changes with the hope that they will fit some anecdotal problems. He and several other judges have asked their law clerks to travel to the clerks' offices in their surrounding counties to gather statistical information on domestic relations cases to identify how long the cases take from date of filing to date of completion. Chief Justice Kite suggested that perhaps the problems with domestic relations litigation aren't any different than those with general civil litigation, and that if some of those problems can be solved, it will also help out the domestic relations situation. Judge Kautz will prepare a summary of the comments and suggestions for the Board to review. He also suggested that updated information be gathered from Natrona County since some of the problems with domestic relation timeliness in that area were related to only having one courtroom. Since they now have three courtrooms, it would be expected that this has resulted in improvements.

Court Interpreter Policy

Chief Justice Kite updated the Board on the status of the Court Interpreter Policy. She explained that the task force's proposal was adopted by the Supreme Court, but was not implemented because it required the Supreme Court to have some procedures in place that do not yet exist. Kristin Karr, one of the State Law Librarians, joined the meeting. Kristin reviewed a draft implementation plan that lays out the steps and timelines for putting the process in effect. She explained the three levels of qualified interpreters that are hoping to be brought on board: certified interpreters, professionally qualified interpreters, and conditionally approved or registered interpreters. It will be necessary to develop an

application form and a Wyoming courts orientation program that will ensure that the individuals are familiar with court procedures, their role in the court process, court terminology, and interpreter ethics. Those interpreters who want to become “certified” will presently have to complete an out-of-state program until an in-state program is developed. Idaho and Colorado have both agreed to let out-of-state participants complete their programs. It is hoped that within a year Wyoming will have a written exam in place that will test for their knowledge of English, court procedures and interpreter ethics, and within two years to have some sort of oral certification, at least in the Spanish language, that will allow someone to test in-state for certification at the highest level. Joann informed the Board that there will be meetings in Cheyenne, Casper and Rock Springs to encourage those interpreters who are currently used in the courts to complete the orientation program. The Supreme Court will pay for the class, however, each individual who participates will have to pay their own mileage. It is hoped that the seven community colleges around the state will allow Kristin to conduct orientation training on court procedures and terminology for any students who might be interested in making \$20-\$40 per hour to provide services in their local community. The high-end fees (\$40-\$50 per hour) would be paid to those individuals who have actually gone through certification in a state with which Wyoming has a reciprocal agreement. Joann explained that additional funds will be added to the interpreter budget since there has been an increase in interpreter use over the past two years. It is hoped that the circuit courts will continue paying fees in the \$20-\$25 per hour range for the interpreters who just meet the minimum requirements. The district courts may see some increase in interpreter fees if they have the highest level interpreter available to them. Discussion was held. Another meeting with the task force will be scheduled. A few district court clerks will be asked to become involved with the task force.

Judicial Salaries

Chief Justice Kite asked that the Board select a subcommittee consisting of a district judge and a circuit court judge to work with her on developing the Board's position on salaries. Joann explained the salary history of the judges since 2002, and noted that there hasn't been a pay increase since 2009. Joann hopes to meet with the Chairman of the Joint Appropriations Committee in July to present a salary proposal. A telephone conference will be held by the Board sometime before September on this issue. Both judicial conferences will be asked for a volunteer to serve on this subcommittee.

Judicial Position in Fourth Judicial District

Judge Fenn joined the meeting to speak on the matter of the Fourth Judicial District seeking an additional district court judge. The weighted workload study indicates that there is a need for an additional judge in this district, and that it is the busiest district per judge. The proposal is that the judge would be headquartered in Buffalo, and would travel to Sheridan 2-3 days per week. The Johnson County Commissioners have not yet broken ground on a new courthouse in Buffalo, but they have issued a contract to an architect who has put together a detailed plan and construction contracts. The facility will have two courtrooms, a clerk's office, and will be patterned much like the new building in Casper. Judge Campbell moved and Judge Price seconded a motion that the Board of Judicial Policy & Administration supports Judge Fenn's request for the addition of another district judge position in the Fourth Judicial District. Motion carried unanimously.

Jurisdictional Issues

Chief Justice Kite explained that Karl Linde, the Senior Staff Attorney, did research on the question of how the district courts, as of July 1, 2011, are to handle their current civil cases that fall within the range of \$7,000 and \$50,000. It is Karl's opinion that jurisdiction is determined at the time a suit is filed. Therefore, all cases that were filed in the district courts prior to July 1, 2011 that fall within that range will remain in the district courts, and all new cases filed on or after July 1, 2011, that fall within the \$7,000 and \$50,000 range, will be filed in the circuit courts. Chief Justice Kite will send an email to the district court clerks explaining that the Board has looked at this issue, and that this is its position.

New Business

Stalking, Domestic Violence & Garnishment Forms

Joann advised the Board that the circuit court judges approved the revised stalking, domestic violence and garnishment forms at their conference meeting in April. Judge Campbell moved and Judge Castor seconded a motion to adopt these forms as proposed by the Circuit Court Committee. Motion carried unanimously.

August Joint Judiciary Meeting

Chief Justice Kite informed the Board that there will be a Joint Judiciary Committee meeting at the end of August in Newcastle, Wyoming. Two particular areas of interest to the judiciary will be the juvenile justice issue and the magistrate issue. Chief Justice Kite would like to have a formal position from the Board on both of these matters. Discussion was held on the magistrate issue. The subcommittee of judges that is researching this matter will be asked to provide a position paper to the Board. The Board will then meet by phone conference in the middle of July to establish its position. Discussion was also held on the juvenile justice issue. Both of the district and circuit court conferences will have representation present at the Joint Judiciary Committee meeting. It was decided that the Board will not take a position on this matter at this time.

Diversity in the Judiciary

Chief Justice Kite reported on a speech that the Chief Justice from Arizona gave at the Women's Legal Forum in Jackson. She noted how much further along Arizona—a state very similar to ours—is in achieving racial and gender diversity in the judiciary, and she believes that there is a role that the judiciary should take to foster this. She stressed the importance of encouraging women to submit their names for the Judicial Nominating Commission. In checking with the Wyoming State Bar she learned that only 20% of the Bar membership votes in the election for the members of the Judicial Nominating Commission. The State Bar leadership is looking at ways to encourage better participation in this process, which would hopefully translate into more diversity in the judiciary. Chief Justice Kite would like for the Board to develop a policy statement that emphasizes that the judiciary of Wyoming should reflect the diversity of the Bar in Wyoming. This would possibly raise the profile of this issue within the Bar and within the operation of the judicial selection process.

Five State Case Management Flow

Joann spoke about the Five State Case Management Flow Conference. North Dakota, South Dakota, Montana, Idaho, and Wyoming have been asked by the North Dakota State Court Administrator to participate in a conference in Coeur d'Alene, Idaho on August 17-19th to talk specifically about case law management. They would like for a team from Wyoming (a judge, a judicial assistant, and a district court clerk) to meet with all of the other states' teams to discuss the issues that they are facing, and to listen to presenters from the National Center speak about the practices that are used in the area of case law management. Joann will send an email to the district court judges to see if there is anyone interested in attending this conference.

Request for Permanently Assigned State Vehicle

Joann advised the Board that Judge Tyler in Sublette County has been traveling close to 10,000 miles a year covering court in Lander, and has submitted his request for a permanently assigned state vehicle. Because of the policy that requires the approval of the Board for a judge to make this budgetary request, Judge Tyler is asking for the Board's support to move forward with this. Discussion was held. Justice Golden moved and Judge Brooks seconded a motion to support Judge Tyler's request for a permanently assigned state vehicle. Motion carried unanimously.

Redaction Policy

Chief Justice Kite provided an update on the district judges' request for the Board to reconsider the current redaction policy. A task force has been created to look into this. Judge Sullins, Judge Day, Judge Davis, their respective reporters, and a few other reporters from around the State are going to meet to discuss modifications to solve the problems that they feel exist with the current policy.

E-Payment System

Chief Justice Kite informed the Board that the e-payment system is now fully functional. She commended the Supreme Court's IT staff for getting the system implemented statewide while still taking care of their other duties. There is now a link on the Supreme Court's website and the State of Wyoming's website to pay traffic tickets. A press release has been issued to inform the public, and the information will also be put on the Highway Department's interstate informational signs. Joann reported that half a million dollars has been collected through e-payments from January 1st to date.

Board Adjourned.

Schedule of Future Meetings:

September 13, 2011

December 1, 2011

Approved by email on June 29, 2011.

The Board of Judicial Policy and Administration's meetings are not open to the public unless the Board, in its discretion, determines that a particular meeting or agenda item should be open to the public. The Board will disclose what is discussed at the meetings at its discretion.