

Board of Judicial Policy and Administration
Minutes
June 1, 2012

The Board of Judicial Policy and Administration met in Cheyenne on June 1, 2012. In attendance in person in Cheyenne were Justice William Hill, Justice Jim Burke, Judge Tom Campbell, Carol Collins, Wendy Soto, Joann Odendahl, Ronda Munger, Carol Thompson, Georgia Tibbetts, and Becky Craig. Those in attendance by video conference were Justice Michael Golden, Judge Dan Price, Judge Jeffrey Donnell, Judge Dan Forgey, Judge Robert Castor, Judge Wesley Roberts, Judge Curt Haws, Peggy Trent, and Pat Dixon. Justice Hill chaired the meeting since Chief Justice Kite was unable to attend. Justice Hill introduced Justice Burke and Judge Haws, who are the newly elected members of the Board who will replace Justice Hill and Judge Forgey on July 1st. He explained that Judge Price was reelected by the District Court Conference to serve a second term as a member of the Board.

Old Business

Committee Updates

Court Security Commission – Justice Hill informed the Board that the Commission's next meeting is scheduled for July 12, 2012 in Cheyenne. Judge Donnell explained that he had some research done regarding courts enacting their own security controls in courthouses, regardless of statutory authority. Justice Hill requested that Judge Donnell pass that research on to him for use by the Court Security Commission.

CTAC/District Court Case Management/E-Citations – Joann Odendahl reported that they are still on schedule for the rollout of the District Court Case Management System on August 1, 2012, in three pilot courts. She also advised that the e-citation project is still on track to start July 1, 2012, and will pilot in Laramie County.

Access to Justice Commission – Joann informed the Board that the Wyoming Center for Legal Aid has contracted with a company to automate the pro se forms that are available on the Supreme Court's website. Joann explained that an issue that is raising some discussion is whether or not the pro se packets should be available to any citizen that wishes to use them, or if they should be available only to those individuals who are income eligible. Discussion was held on this matter. Judge Price moved and Judge Donnell seconded a motion that the pro se form packets continue to be available at each District Court Clerk's Office, that the pro se forms remain on the Supreme Court's website, and that there be no income eligibility requirement for their use. Motion carried unanimously. Further discussion was held. Judge Donnell moved and Judge Castor seconded a motion that any changes that are made to the pro se forms should be made only at the direction of the Supreme Court. Motion carried unanimously. Joann informed the Board that the Wyoming Center for Legal Aid will be moving into an office on the first floor of the Hathaway Building in July of 2012, and that the Center is in the process of searching for an Executive Director. Justice Burke reported on a meeting with Senator Enzi, Senator Barrasso, and Representative Lummis with regard to retaining federal funding for legal

services. He explained that Wyoming risks losing some of its funding because of proposed budget cuts, and even if cuts aren't imposed, the state could still lose funds due to the recent census numbers. Senator Enzi has asked for specific information with regard to the provision of legal services in rural states, under the theory that it costs more per capita to reach individuals in a rural state than it does in a high density state.

Legislative Update

Joann reported that due to a legislator receiving a complaint from a citizen about being drawn for a jury panel 2-3 consecutive times, the topic of changing the jury statutes may be an item that is brought up at the Joint Judiciary's Interim Committee Meeting. Discussion was held. It was decided that this matter can be handled by policy, rather than by any statute revisions. The Board will address this matter and will work on development of a policy. Ronda will discuss this issue with the District Court Clerks at their June 12th meeting.

Rule 8 Redaction of Transcripts

Ronda advised that a committee was formed, at the urging of the BJPA, to review Rule 8 for recommended changes. She explained that the Supreme Court signed an Order, effective July 1st, which changes the process in Rule 8 from a tracking system to more of a notification system. Notice will be given to the attorneys to inform them of this rule change.

Court Facilitator Training

Ronda reported on the Court Facilitator training that was held in Cody on May 15th. She explained that the Court Facilitator Program goes hand-in-hand with the pro se packets that the Supreme Court provides on its website. The concept of the program is that often times the litigants in cases only have process questions about the pro se forms, and that a court facilitator could assist in answering those questions. Pam Gagel, the Colorado expert from the Institute for the Advancement of the American Legal System, conducted an initial conference practice session with a pro se litigant. Pam recommended that "should I" questions should not be answered by the clerks, but that "how" questions can be answered. An Administrative Order will be signed by the Supreme Court that will give the district courts that are acting as pilot courts the authority to participate in the program, thus alleviating any concerns about the clerks practicing law.

Mandatory Retirement Age at Age 70

Joann advised that this is not an interim topic for the Joint Judiciary meeting. Discussion was held on this matter. It was decided that this topic would be tabled at this time.

Joint Judiciary Committee (Juvenile Court Issues)

Peggy Trent, the Chair of the Juvenile Justice Code working group, informed the Board that this committee's purpose is to evaluate the efficiency and effectiveness of the operational areas of the justice system as it applies to juveniles and to look into the concept of developing a single court system for juveniles. Peggy informed the Board of some of the committee's preliminary findings and indicated that the group is still developing their recommendations for the final report that will be submitted for the Joint Judiciary Interim Committee Meeting on June 18th. Peggy will provide a copy of the report to Judge Donnell once it is finalized by the committee, and he will then forward it to the Board members for review.

Circuit Court Workload Management

Judge Wes Roberts outlined the concerns that some legislators have voiced regarding how the judicial workload is allocated in areas of the State that utilize full-time circuit court magistrates. Judge Roberts pointed out that the judicial workload study is being used to make comparisons, but that the workload study does not tell the whole story. He informed the Board that the Circuit Court Conference is looking at the allocation of the workload in each district, and that this will continue to be a topic of discussion between the Circuit Court Judges and Chief Justice Kite.

New Business

Proposed Amendment to Rule 10 of the Rules Governing the Commission on Judicial Conduct and Ethics

Justice Hill introduced Wendy Soto, the new Executive Director of the Commission on Judicial Conduct and Ethics. He thanked the outgoing Executive Director, Carol Collins, for her many years of valuable service on the Commission. Pat Dixon, the Chairman of the Commission on Judicial Conduct and Ethics, reviewed the Commission's proposed change to Rule 10. Lengthy discussion was held. The documents that Mr. Dixon provided to the Board will be circulated to the Supreme Court Justices, District Court Judges, Circuit Court Judges, and Circuit Court Magistrates, who will be asked to convey their opinions on the proposal to their respective conference. Each conference president will then report back to Ronda Munger no later than September 30, 2012. This topic will be put on the agenda for the December 1st BJPA meeting.

Subcommittee on Judicial Compensation

Discussion was held about whether or not to form a subcommittee to look into how other states are setting their judicial compensation. Judge Campbell moved and Judge Price seconded a motion to create a standing committee of the Board of Judicial Policy and Administration to study judicial compensation. The committee is to be composed of three sitting members of the BJPA, with a representative being appointed from each of the three courts. Motion passed 7 to 1. Chief Justice Kite will designate the members of this standing committee.

JAC Required Budget Cuts

Joann reported on the Joint Appropriation's requirement that the judiciary take a 4% budget cut. She advised the Board that Joint Appropriations has asked for the specific legislative committees to hear from the judicial branch as to where they anticipate making those cuts, and that the judiciary will probably be asked to appear before them by the end of July. Joann will be working with the district courts and the circuit courts on their particular budget cuts. She explained that even though the budget bill indicates a 4% cut, the LSO has asked that the judiciary be prepared to address an 8% cut in case the Management Council ultimately decides on that percentage. Discussion was held on areas where budget cuts could be made. It was reported that a committee composed of Judge Castor, Judge Roberts, Judge Haws, Judge Rogers, Judge Nau, and Judge Harrington is researching areas that budget cuts can be made in the circuit courts.

W.S. 5-3-404 Application to Specific Hearings & Cases

Judge Price spoke about needing to identify the types of criminal proceedings held in open court that the court reporters report pursuant to W.S. 5-3-404, and how the district judges do not handle this in a uniform manner. Discussion was held. Judge Donnell moved and Judge Price seconded a motion that the recommendation be made to the Supreme Court that routine transcriptions for criminal cases be done only for original arraignments, original change of plea hearings, and original sentencing hearings, and that there be no routine transcribing done for any other hearings. Motion passed 7 to 1. Judge Price will send an email to the district judges to let them know about this recommendation. If the Supreme Court agrees with the Board's recommendation, the Supreme Court's fiscal office will be directed not to pay for any transcripts other than those mentioned.

Court Faxes

Ronda reported that Rule 4 of the Rules for Fees and Costs of Circuit Courts, and Rule 4 of the Rules for Fees and Costs of District Courts, allow for a \$2.00 charge by the clerks' offices to transmit or receive a facsimile. She explained that at the Circuit Court Clerks' Meeting in April she was asked if the Board would consider recommending that the Supreme Court change this rule to allow for a maximum number of pages that will be transmitted, and to consider increasing the fee. The clerks are finding that the \$2.00 fee is not covering the cost to provide this service, and that this rule is being abused. Judge Castor moved and Judge Campbell seconded a motion that a draft rule be prepared for the Board to review at its next meeting. Motion passed unanimously. Ronda will ask for input from the district and circuit court clerks and will draft a proposal for the Board to consider at its September meeting.

Miscellaneous

Joann informed the Board that Rick Lavery has been appointed as the newest District Judge, and that he will be taking office after the 1st of July.

Meeting was adjourned.

Schedule of Future Meetings:

September 17, 2012 (Jackson Lake Lodge, Jackson, WY)
December 6, 2012

Approved by email on 7/10/2012

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.