

Board of Judicial Policy and Administration
Minutes
June 19-20, 2003

The Board of Judicial Policy and Administration met in Casper on June 19th and 20th, 2003. Chief Justice William Hill, Justice Larry Lehman, Justice Bart Voigt, Judge Ed Grant, Judge Keith Kautz, Judge Jim Burke, Judge Rob Denhardt, Judge Mike Huber and Judge Wade Waldrip attended. Judge John Perry, Judge Terry Tharp, Holly Hansen, Joann Stockdale and Ronda Munger also attended. Throughout the two-day meeting, the following individuals attended at some point: Judge Jeff Donnell, Dean Jessup, Rodger McDaniel, Donna Sheean, Paul Yatsic and Matt Fermelia.

1. Approval of Minutes

Judge Waldrip moved and Judge Denhardt seconded a motion to approve the minutes of the May 19, 2003, Board conference call. Motion carried unanimously.

2. Committee Reports

A. Education Committee -- Justice Voigt and Judge Burke reported on the activities of the Education Committee. On Tuesday, September 9, 2003, the Education Committee has arranged for Dean Jerry Parkinson to speak for an hour on Search Warrant Affidavits. Professor Ted Lauer will also speak for about an hour on 404(b) evidence. The Committee attempted to schedule CJE related specifically to Wyoming Law.

B. Drug Court Committee -- Judge Denhardt reported on the activities of the Drug Court Committee. The majority of the work is outlined under #4 New Business, Approval of Drug Court Rules, but as a summary, the committee worked on a set of operational rules for the drug courts and set forth Rules and Comments for the Board's approval.

C. Judicial Compensation Committee -- The Board discussed the merits of having a Judicial Compensation Committee and the need to take immediate action if any legislation is going to be attempted in the 2004 Session of the Wyoming Legislature. Justice Hill will discuss the idea with the Governor and report back to the Board.

3. Old Business

A. Natrona Update. Chief Justice Hill reported that the Nominating Commission provided the names of three individuals for the Seventh Judicial District Judge position to the Governor at noon on June 19, 2003. The Governor has thirty days from that date to name the new district judge.

4. New Business

A. Family Courts -- Rodger McDaniel, Director Department Family Services, appeared before the Board to provide information regarding Family Treatment Courts. Family treatment courts are similar to drug courts, except that the focus of family treatment courts is the family rather than the individual. Mr. McDaniel sent letters to the district judges and was encouraged at the response. He believes that there will be as many as six family treatment courts by next spring. Mr. McDaniel does not think he will need any statutory changes or appropriations of money from the Legislature. The Board expressed some concerns about changing the traditional role of judges and wondered if this program could be administered through DFS. Mr. McDaniel

explained that he believes the program is successful when using the judge to hold all parties accountable.

- B. Approval of Drug Court Rules. District Judge Jeff Donnell and Dean Jessup appeared before the Board to discuss the proposed rules and procedures for drug courts. The committee looked at several issues within the drug court system -- ethical issues, procedural issues, employment issues, insurance issues and structural issues. The first set of proposed changes would be to the Wyoming Code of Judicial Conduct. The individual Cannons are not changed at all, but the Committee is proposing changes to the commentaries that are specific to drug court judges. The proposed rule changes would appear in the Wyoming Court Rules and would only apply to those courts with drug courts. The proposed changes are an attempt by the drug court committee to create some degree of procedural, structural and ethical unity within the existing drug courts. Judge Huber moved that the Board approve the proposed changes to the Wyoming Code of Judicial Conduct. Judge Denhardt seconded the motion. Discussion was had regarding the merits of adopting the changes to the Cannons and the Rules at the same time. The motion failed with Justice Lehman, Judge Grant, Judge Waldrip, Justice Voigt and Judge Kautz voting "No." Judge Huber moved that the Board adopt Rule 1.01, Scope and Definitions, of the proposed Drug Court Rules. Judge Denhardt seconded the motion. Continued discussion was had on the merits of adopting these changes in a piecemeal fashion. The motion failed with Justice Hill, Justice Voigt, Justice Lehman, Judge Grant, Judge Burke, Judge Waldrip, and Judge Kautz voting "No." Several Board members stated that their "no" vote did not reflect opposition to the rules, but rather their desire to adopt a single package.
- B1. The Board was advised that its December 18, 2003 Order titled, "Order Adopting Amendments to the Wyoming Rules of Civil Procedure" was not properly copied to the district court clerks and therefore the increase in the twelve person jury fee has not been implemented. Judge Grant moved that the effective date of the Order be amended to July 1, 2003. Justice Lehman seconded the motion. The motion carried unanimously. Judge Waldrip moved that the Board adopt a policy that all orders signed on behalf of the Board be sent to the district judges, circuit judges, district clerks, circuit clerks and the state bar office. Justice Voigt seconded the motion. The motion carried unanimously.
- C. Credit Card Approval for Pilot Courts. Joann Stockdale, Court Services Officer, appeared before the Board to discuss the acceptance of credit cards in the courts. Ms. Stockdale reported that at the present time there is 6 million dollars in outstanding fines in the Wyoming Circuit Court system. She requested the Board establish two pilot courts to accept credit cards for all fines and fees owing to the court to see if the citizens of Wyoming are willing to pay the convenience fee of \$5.00 per transaction to use the credit card service. Justice Lehman moved approval for the pilot project for the use of credit cards for all purposes. Judge Grant seconded the motion. The motion carried unanimously. After the pilot courts are up and running for ninety-days, Ms. Stockdale is to make a report to the Board.
- D. Interest Bearing Accounts. Holly Hansen summarized Don Merriam's letter to the Board regarding interest-bearing accounts. Mr. Merriam requested that the Board ask the Legislature to revise W.S. § 5-5-157, which requires that fines, costs or forfeitures be deposited in interest-bearing accounts. There are some instances where it is not in the best interest of the courts to deposit these monies into interest-bearing accounts. Justice Lehman moved that Chief Justice Hill, Holly Hansen and Don

Merriam accomplish all the steps necessary to effectuate this change during the next Legislative session. Judge Denhardt seconded the motion. The motion carried unanimously.

- E. Secondary Users and Criminal Justice Information Exchange Agreement and Use of Ex-Parte Criminal Record Information in Sentencing. Judge Fred Dollison, by his letter of February 27, 2003, advised the Board of his concerns regarding the judicial use of the NCIC database searches on defendants appearing in court. The Board discussed the matter and took no action.
- F. Clarification of Issues Regarding Full-Time Magistrates. There were three issues discussed regarding full-time magistrates. The first issue concerns the section of the Code of Judicial Conduct titled Application of the Code of Judicial Conduct. Specifically, Section D2 creates concerns regarding the practice of law by full-time magistrates. Judge Dollison raised the second issue. He would like to know if full-time magistrates can charge for conducting weddings. And third, the full-time magistrates would like the Board to describe the process by which they receive pay raises. Holly Hansen is to discuss these issues with the full-time magistrates and then report back to the Board.
- G. Withdrawal of Circuit Courts from Conference of Special Court Judges -- Judge Denhardt reported to the Board the discussion that occurred in Laramie at the last Conference of Special Court Judges regarding the dissolving of the conference. A majority of the circuit judges would like to have their own conference meetings rather than meet in conjunction with the municipal court judges. Chief Justice Hill and Holly Hansen will contact the municipal court judges and discuss the matter.
- H. Wyoming Rules Criminal Procedure 39 - Judge Denhardt proposed an amendment to WRCP 39 that would allow judges to initiate an action by an Order to Show Cause in the revocation of probation. The Board took no action on this issue.
- I. Grant Approval, Technology Taskforce -- Holly Hansen reported to the board that the grant application had not been received and therefore will not require an action by the Board. She further advised that the JTTF would like to invite Lindy Schmidt, Dave Clark and Steve Gilmore to be members of the Committee. The Board had no objections.
- J. Request for Extension of Time for CJE. Justice Michael Golden and Judge Keith Kautz requested extensions of time to complete their CJE requirements. Judge Waldrip moved the Board approve the requests, and Judge Denhardt seconded the motion. The motion carried unanimously.
- K. Issues of Court Security. Judge Sam Soule', via email dated June 5, 2003, advised the Board of security issues that need to be addressed in the courts. Holly Hansen discussed a Homeland Security Grant that the Supreme Court could apply for that would provide for security equipment and training. The grant does not provide for personnel. In requesting the grant, it is necessary to demonstrate some connection to first responders. The Board requested that Holly Hansen send an email to all judges getting information on security matters in each court. Additionally, Ms. Hansen was requested to contact Joe Moore and Larry Majeris and request that they include the Judicial Branch in the security assessment currently being conducted by the State. The National Center for State Courts was suggested as a resource on this issue. Chief

Justice Hill appointed Judge Perry, Justice Kite and Judge Kautz as a Court Security Subcommittee.

5. Legislative Update

Holly Hansen provided an update on the status of the following bills from the 2003 Legislative session:

- A. HB-299 – Retired Judges’ Election. This bill allows judges to withdraw from the new judicial retirement system, so long as it is prior to receipt of any funds. It also allows circuit judges to join the new system. The Board expressed some concern about the section of the statute that provides for an actuarial assessment if the retiree does not meet the full-retirement requirements. Justice Lehman and the legislative subcommittee will bring a proposal to the Board in an attempt to correct that section.
- B. Title 14 Review. Enrolled act 79 requires the appointment of a member of the Court Improvement Project to work on the review of Title 14. Judge Nena James was appointed to this committee. Holly Hansen will forward the scheduled meetings of the Joint Judiciary Meetings to the Board.
- C. HB – 203 Retired Judges Compensation. HB 203 did not pass, but was an attempt to recalculate how a retired judge is paid.
- D. SF101 – Forcible Entry and Detainer. SF101 did not pass, but was an attempt to put forcible entry and detainer cases in small claims court.
- E. SJR – 0009 – Judicial Vacancies. SJR009 did not pass, but was an attempt to dismantle the Judicial Nominating Commission.
- F. Joint Judiciary Interim Work. Holly Hansen attended the Joint Judiciary Meeting in Sheridan on June 19, 2003. The Committee is working on three bills for the upcoming session: 1) is a bill which removes the words Justice of the Peace out of the statutes since there are no longer any justices of the peace; 2) is a bill involving dormant judgments; 3) is a bill that changes the required length of time that court tape recordings have to be stored. The Joint Judiciary is scheduled to meet again in September.

6. Other Matters

- A. Future Meetings Schedule
The September 9, 2003 Conference call was cancelled due to a conflict with the Judicial Council and State Bar meeting.
- B. New Board Members
Chief Justice Hill presented plaques to Justice Larry Lehman, Judge Keith Kautz and Judge Rob Denhardt in recognition of their service on the Board. Justice Marilyn Kite, Judge John Perry and Judge Terry Tharp will be the new members of the Board.

Schedule of Future Meetings

August 12, 2003	Conference Call, Noon
October 2, 2003	Meeting at Saratoga
November 11, 2003	Conference Call, Noon (Conflict with Veterans’ Day Holiday)
December 4 & 5, 2003	Meeting at Law Enforcement Academy