

Minutes
Board of Judicial Policy and Administration
June 20 and 21, 2002
Riviera Lodge Meeting Room
Saratoga, Wyoming

The June 20 and 21, 2002, meeting of the Board of Judicial Policy and Administration was held in the Riviera Lodge Meeting Room in Saratoga, Wyoming. Chief Justice Larry Lehman, Justices William Hill and Bart Voigt, Judges Jeffrey Donnell, Ed Grant, Rob Denhardt, Wade Waldrip, Frank Zebre, and Scott Cole attended. Judges E. James Burke and Michael E. Huber also attended. Matt Fermelia (Supreme Court), Les Pozsgo (Department of Family Services), Peggy Trent (Department of Family Services), Donna Sheen (Title 14 Review Committee), and Ken Koski (State Public Defender) made presentations to the Board. Holly Hansen and Linda Burke also attended.

The meeting was called to order at 8:00 AM on June 20, 2002.

- A. Welcome and Introduction of New Members: E. James Burke and Michael E. Huber
Justice Lehman introduced and welcomed Judges E. James Burke and Michael E. Huber who will officially join the Board as of July 1, 2002.
- B. Approval of: April 16, 2002 Conference Call Minutes
Judge Grant moved and Judge Waldrip seconded a motion to approve the minutes from the Board's April 16, 2002 conference call. Motion passed unanimously.
- C. Committee Reports
 - 1. Judicial Technology Task Force (JTTF)
Jim Bivona presented an update on JTTF and Court Technology activities. He outlined the three phases of the Buffalo-Sheridan Pilot project: Building the Data Warehouse, Information Exchanges with Justice Partners, and Public Access to Court Information. Bivona then explained that the Statewide Court Information Store was currently in the design and analysis stage and the goal was to have a basic capability in place by the end of the summer. In addition, Bivona advised the Board that the JTTF, DOT Driver Services, and several law enforcement agencies were considering the TraCS program. He stated that TraCS was a computer program that enabled electronic citations, accident reports, and incident reports through the use of in-car laptops and various communications networks. Finally, Bivona discussed future key issues, i.e. support of the JTTF by the Board, design of grant guidelines for the \$250,000 available to local governments, electronic signatures and business transactions, rollout of new court case management software, continued success of the Buffalo-Sheridan Pilot project, and preparation for future integration efforts.
Holly Hansen advised the Board that at the State Bar meeting in Jackson on September 12, 2002, there would be a panel discussion with several experts discussing public access to court records. She explained that members of the JTTF had already been invited to attend and she hoped that Board members would also attend. Hansen indicated that the JTTF would use this event as a means to develop a project focusing on public access and formulating a Public Access Policy proposal to be presented to the Board for its approval.
A discussion of possible issues developing in the Drug Courts followed. Possible problem areas mentioned were: rapid growth of Drug Courts without structure and

direction, sources of technical support for Drug Courts, Drug Court employees being users on the judicial branch network, and access to Drug Court records. Chief Justice Lehman commented that Wyoming is the only state in which funding for Drug Courts did not originate through the Courts. The Board agreed that these types of issues would require an organized effort from various sources.

2. Citizens' Access to Courts Committee (CACC)

Chief Justice Lehman provided an update on the activities of the CACC. He explained that the forms were being sold by the Clerks of District Courts and were not being provided free or online. Linda Burke briefly described a visit by Wyoming's District Court Clerks to the District Court in Utah. She explained that in Utah, Pro Se Forms packets were available in hard copy, but were mostly utilized by pro se litigants via the Internet. Attorneys in Utah donated time weekly to help litigants obtain answers to their questions and to complete forms. Chief Justice Lehman suggested that the CACC review the process being used in Utah.

D. Judicial Compensation Issues

1. Judicial Compensation Commission

Holly Hansen described the research provided in the Board notebooks concerning Judicial Compensation Commissions in several other states. Hansen pointed out that at least six states have commissions that focus specifically on judicial salaries and more than twenty states have salary commissions that address compensation issues affecting state officials, including members of the judiciary. After a discussion of whether the formation of a Judicial Compensation Commission in Wyoming should be statutory, the Board appointed a sub-committee to study the matter and propose a plan. Sub-committee members appointed were: Justices Hill and Voigt, and Judges Burke, Grant, and Waldrup.

2. Salaries for Retired Judges

After a brief discussion of salaries for retired judges, Judge Grant moved and Justice Hill seconded a motion to refer the matter of payment of retired judges who work periodically for the judiciary to the Joint Judiciary Committee.

E. Handling of Municipal Court Caseload

1. Extension of Jurisdiction

Based on an inquiry from John Worrall about the possibility of having the circuit court handle the municipal caseload for the town of Manderson, a sub-committee of the Board composed of Judges Denhardt and Skar, and Holly Hansen, presented a recommendation for the Board's approval. The Board discussed adding language stating that the circuit court judge's recommendation would carry substantial weight with the Board, but that in all cases, the decision would be subject to review and determination by the Board. Judge Denhardt moved and Judge Cole seconded a motion to formalize the sub-committee's recommendation with the suggested addition. After further discussion, Judge Denhardt moved and Judge Zebre seconded a motion to table the matter until the proposal was formalized into a policy form and sent out to the circuit judges for their review. Motion carried unanimously.

F. Transition of Justice of the Peace Courts to the Circuit Court System

1. Resolution Regarding Full-Time Magistrates

The Board discussed the proposed Resolution regarding the selection of full-time magistrates. Judge Waldrup moved and Judge Cole seconded a motion to adopt the Resolution. Motion carried unanimously.

2. Adding Magistrates to Code of Judicial Conduct

Justice Voigt referred the Board to the Code of Judicial Conduct, Canon 5, Application of the Code of Judicial Conduct, Part C, Continuing Part-Time Judge. He noted that a magistrate would not be able to practice law because the language does not refer to magistrates. Chief Justice Lehman asked Matt Fermelia to examine the language and consider inserting magistrate. Questions of qualifications and continuing education required by magistrates were mentioned. Judge Cole, Matt Fermelia, and Holly Hansen were appointed to recommend appropriate changes to the Code of Judicial Conduct concerning magistrates.

3. Memo of Understanding with Teton County

After review of the proposed Memo of Understanding with Teton County, the Board discussed whether the contract should be between Teton County and the Board or between Teton County and the Supreme Court. Matt Fermelia suggested the contract being between Teton County and the Supreme Court with an approval line for the Board. Judge Denhardt then moved and Justice Voigt seconded a motion to enter into the Memo of Understanding. Motion carried unanimously.

4. Dual Role of Justice of the Peace/Municipal Court Clerks in Hot Springs and Weston

Holly Hansen explained to the Board that the dual role problem in Weston County was possibly being resolved, however, the situation had not been addressed in Hot Springs County. The Circuit Court Clerk in Hot Springs County has been paid as a full-time employee of the State while also receiving a salary for work as a Municipal Court Clerk. The Board decided to write a letter to the current Circuit Court Clerk stating an overlap of duties was unacceptable and requesting more specific information about the arrangement.

5. Niobrara

Holly Hansen reported on her trip of June 4, 2002, to meet with Judge Meier and his Clerk, Becky Craig. Judge Meier advised that he would submit a budget request to the county for an increase in payment for the space he provides for the court in exchange for his agreement to maintain the equipment, including telephone service, fax, copying, etc. Becky Craig would be a contract employee, rather than a state employee. The Board agreed with the approach and assigned Matt Fermelia the task for preparing contracts. The Board recognized that each county will have unique features and will make arrangements on a case-by-case basis.

6. Supervision of Clerical Staff

After consideration of the proposed policy for supervision of clerical staff in courts without a resident circuit court judge, the Board agreed upon two revisions. Justice Voigt suggested addressing the policy to counties without a resident circuit court judge and also to counties with more than one resident judge. Further, the Board decided that it should have the ultimate authority to appoint the supervisory judge after receiving the recommendation of the circuit judge/s from the county. Judge Waldrip moved and Judge Zebre seconded a motion to formalize the Policy with the two additions and then to circulate among the circuit court judges. Motion carried unanimously.

The Board adjourned at 11:40 am for lunch and resumed meeting at 1:00 pm.

G. Employment Issues – Matt Fermelia

1. At-Will and For-Cause Employee Information for Circuit Court and Supreme Court

Matt Fermelia outlined the proposed changes in the latest drafts of the At-Will and For-Cause Employee Information for Circuit Court and Supreme Court booklets. With respect to the For-Cause Employee Information, the Board agreed on the first

option for the Nepotism paragraph and discussed the addition of a grandfather clause. Political activity was then discussed and Matt Fermelia advised that the For-Cause and At-Will Employee Information booklets as proposed would not conflict with statutes concerning employees running for public office. The Board discussed adding language stating that the presiding judge would have sole discretion to determine if an employee was not performing his/her duties and the employee could then be subject to termination. Matt Fermelia agreed to incorporate the suggested changes in the Information booklets. Judge Waldrip then moved and Justice Voigt seconded a motion to approved the Employee Information booklets with the suggested changes and to make them effective as of July 1,2002.

H. Circuit Court Issues

1. Records Check Fees

Holly Hansen explained that the district court fees for records checks were currently \$5.00 per check and that the circuit court fees were \$20.00. She advised the Board of the number of problems and calls arising from the difference in fees not only between district and circuit courts, but of the complaints about Wyoming's fees being higher than other states. Defining "general public" in determining which entities are charged and whether a fee should be charged for each name or group of names have been problems. The Board decided to appoint a sub-committee comprised of a judge, clerks, and an attorney to offer recommendations for appropriate fees. Judge Huber, Matt Fermelia, Gerrie Bishop, Kathy Cowen, and Holly Hansen were assigned to this sub-committee.

2. Drug Court

The Board discussed a variety of issues concerning Drug Courts: induction requirements, standardization of forms and procedures, funding, accounting and auditing problems, role of judiciary, statutory guidance, and due process issues. A motion was proposed to appoint a committee to formulate recommendations, rules, and/or standards for the operation and management of Drug Courts and recognizing judicial obligations, standards, and limits. Chief Justice Lehman suggested involving Dean Jessup as an ex officio member. Judge Donnell moved and Judges Denhardt and Grant seconded the motion. Motion carried unanimously. The Board appointed Judge Denhardt as chairman, and Judges Donnell, Huber, and Sampson as members. The Board asked that a couple more members be appointed to the committee.

3. Payment of Costs in Misdemeanor Cases (Judge Skar)

The Board considered Judge Skar's concern about payment of costs in misdemeanor cases and deferred action on the matter.

I. Natrona County Facilities

Judge Park asked the Board to consider the possibility of using \$7,500 from his district court budget to help cover the architect costs. The Board was not in favor of the idea, but advised Judge Park that he could certainly make his own decision about spending the funds. Justice Hill moved and Judge Donnell seconded a motion not to endorse Judge Park's request. The Board stressed, however, that Judge Park could make his own decision concerning his budget. Motion carried unanimously. Judge Donnell advised Judge Park of the Board's position by cell phone during the meeting.

J. Automation and Victim Service Fees in Multiple Citation Cases

After a brief discussion, the Board decided to approve the language for the proposed Rules for Fees and Costs for Circuit courts with one exception: every "charge" would be

replaced with “charge/count.” Justice Hill moved and Judge Denhardt seconded the motion to approve the Rule. Motion carried unanimously.

Rule 1.05, Compulsory counterclaim, cross-claim, or third-party claim outside court’s subject matter jurisdiction. The Board decided to refer to the Rule to George Santini, Chairman of the Permanent Rules Advisory Committee, Civil Division. Justice Lehman volunteered to write the letter and forward to the committee.

K. Rule 4, Wyoming Rules of Civil Procedure

The Board agreed to forward the proposal to Rule 4 of the Wyoming Rules of Civil Procedure to George Santini, Chairman of the Permanent Rules Advisory Committee, Civil Division. Justice Lehman volunteered to write the letter and forward to the committee.

Justice Hill presented plaques from the Board to Judges Donnell and Zebre for their service to the Board. In addition, Justice Hill presented Chief Justice Lehman with a plaque for serving as chairman of the Board.

The Board adjourned at 4:00 pm for the day.

Friday, June 21, 2002, 8:00 am

L. Update on Title 14 – Les Pozsgi, Donna Sheen, and Peggy Trent

Les Pozsgi (Administrator, Dept. of Family Services, Division of Juvenile Services), Donna Sheen (Coordinator of Title 14 Review Committee), and Peggy Trent (Consultant, Department of Family Services) appeared before the Board to discuss proposed legislation affecting Title 14. Donna Sheen asked for the Board’s input on the concept and feedback on the written effectiveness of the proposed legislation. She directed the Board’s attention to areas of proposed changes, including assistance to the Multi-Disciplinary Team (MDT), telephonic notice and warrants, delinquency and CHINS, consent decrees, jurisdiction, fiscal impact, transition from children into the adult system, and legal representation of children in Wyoming (guardian ad litem, attorney for the child, and attorney to represent best interests of the child). The speakers suggested that the Review Committee would like the Board to develop guidelines in some of these areas. The speakers also suggested seeking support from the Board to ask the courts to fund some projects, such as the exploration of pilot projects for family courts. Les Pozsgi advised the Board that, depending on the reaction of the Joint Judiciary committee that would be meeting on July 8th and would be reviewing the proposal, the Board might be able to obtain a copy of the draft legislation for a more careful review. Chief Justice Lehman indicated that the Board would like to discuss these issues further and also to hear Judge Hartman’s thoughts on the subject.

M. Interpreter Fees – Ken Koski, State Public Defender

Ken Koski, State Public Defender, spoke to the Board about the inconsistencies in the employment and payment of court interpreters in Wyoming courts. Koski indicated that Colorado’s policy is quite clear and he would be able to provide the Board with a copy of that language. The Board discussed the use of certified vs. non-certified interpreters, in what circumstances interpreters should be retained, which entities should pay for the interpreters, whether there should be a rule change, and what information would be available on the current costs for interpreters. Holly Hansen volunteered to meet further with Ken Koski to bring back recommendations to the Board at its September meeting. They will poll the clerks and isolate the current costs.

N. Reports

1. Court Administrator

Holly Hansen reported that the Division of Victim Services awarded the Supreme Court a VAWA grant to train 25 judges and 25 law enforcement personnel on federal firearms and full faith and credit. She advised the Board that the training would be in 2003.

Holly Hansen indicated that the supplemental budget request for 2001 included a section for the Board of Judicial Policy and Administration. That section was used to request additional items needed by the entire judicial branch. She wanted to know if the district court judges would like to do the same thing during the 2003 supplemental budget request. The items to be requested would be postage and travel. She asked the district judges to let Joann Stockdale know as soon as possible if these items should be included in the Board's request. She pointed out that this would not preclude the district courts from submitting separate supplemental budget requests.

O. Set Meeting Schedule for 2003

The Board decided to set the schedule for 2003 at a future meeting.

P. Schedule of Future Meetings

1. July 9, 2002 Conference Call – Canceled this conference call
2. August 13, 2002 Conference Call
3. September 11, 2002 in Jackson (to coincide with State Bar)
4. October 8, 2002 Conference Call
5. November 12, 2002 Conference Call
6. December 5 and 6, 2002 in Douglas

Q. Other Matters

The Board adjourned its meeting at 11:30 am.

BJPA Action Plan
Resulting from June 20 and 21, 2002 Meeting

- Sub-committee - Develop Policy regarding users on Judicial Branch Network
Justice Hill, Holly Hansen, and Jim Bivona
- Sub-committee - Judicial Compensation Committee
Justices Hill and Voigt, and Judges Burke, Grant, and Waldrip
- Sub-committee - Recommendations for Rules of Judicial Conduct applying to magistrates
Judge Cole, Matt Fermelia, and Holly Hansen
- Sub-committee - Records Check
Judge Huber, Matt Fermelia, Gerrie Bishop, Kathy Cowen, Holly Hansen
- Sub-committee - Drug Courts
Judge Denhardt – Chairman
Judges Donnell, Huber, and Sampson
Appoint a couple more members
- Sub-committee – Court Interpreters
Holly Hansen and Ken Koski
- District Judges to notify Joann Stockdale about supplemental budget
Judges Burke and Grant