

# **Board of Judicial Policy and Administration**

## **Minutes**

### **September 8, 2014**

The Board of Judicial Policy and Administration met in Cheyenne, Wyoming on September 8, 2014. In attendance in person were Chief Justice Jim Burke, Justice Marilyn Kite, Justice Michael Davis, Justice Kate Fox, Judge Tom Campbell, Judge John Perry, Judge Bob Castor, Joann Odendahl, Ronda Munger, Steven Dreher, Kristi Racines, Angie Dorsch, Kristin Karr, Eydie Trautwein, Guy Cameron, Bob Lampert, Steve Lindly, and Becky Craig. Judge Wes Roberts participated by phone.

Chief Justice Burke welcomed new members Justice Fox and Judge Kautz to the Board.

### **Old Business**

#### **Committee Updates**

##### **Court Security Commission –**

- Court Security Assessments – Justice Kite reported on the two grants that were received from the National Center for State Courts: \$50,000 for courthouse assessments, and \$30,000 for training. She explained that the eight neediest counties were chosen for the courthouse assessments, and four assessments have been completed to date in Wheatland, Torrington, Lusk and Laramie. The remaining assessments will be conducted the week of September 22<sup>nd</sup> in Newcastle, Sundance, Basin and Cody. Justice Kite anticipates that the assessments will be utilized by the counties to make prioritized decisions on what can be done to make their courthouses safer.

- Court Personnel Security Training – Justice Kite reported that the National Center for State Courts will be conducting three training sessions during the week of October 28<sup>th</sup>. The University of Wyoming's video conferencing system will be utilized. There will be six remote locations and three physical locations where people can receive training. Justice Kite also advised that there will be a special training at the September Wyoming Association of County Officials meeting in Lander at which Kevin Burke, a Minnesota judge who was involved in an actual shooting, will give a very dramatic and persuasive presentation.

- Court Security Legislative Update – Justice Kite expressed her hope that the proposals that are developed from the courthouse assessments will help to secure funding from the Legislature as was accomplished for Fremont and Sweetwater Counties, but is hopeful that matching funds will not be required since these counties do not have adequate resources. Judge Roberts reported that the construction of the facility in Riverton is well underway. He commented that this is the result of the tremendous collaborative effort made by the Fremont County Commissioners, the Office of Homeland Security, the Legislative branch, the Executive branch, and the Judicial branch. Chief Justice Burke,

Justice Kite, and Judge Roberts emphasized the importance of the judges taking a leadership role in their county's court security efforts.

• Guy Cameron, Director of the Office of Homeland Security – Director Cameron explained that the role of the Court Security Commission is to establish voluntary standards that protect life, property, and the judicial process in the Wyoming court system, and that this is achieved through interaction with the local court security management committees that make recommendations concerning equipment needs, facility design and development, training, as well as protocols and procedures for court proceedings. Director Cameron pointed out that Standard 2009-01 establishes that the membership of each committee is to consist of the sheriff, a judge from the circuit court and judge from the district court in the county, and the county commissioners. Any other members who are selected are to be recommended in writing and approved by the county commissioners. In addition, each committee is to internally name a chairman. He noted that 17 of the 23 counties are currently chaired by a county elected sheriff, and 6 are chaired by a district or circuit court judge. He stressed that the ability to continue to make progress depends on the district and circuit court judges' visible leadership on these management committees. Chief Justice Burke noted that there are a number of counties that do not have a district judge or a circuit court judge on their county's local court security management committee. Discussion was held on this matter. Judge Castor moved and Justice Davis seconded a motion recommending to the Supreme Court that a resolution be adopted, in accordance with Wyoming Court Security Standard 2009-1, which states that there shall be one district judge and one circuit judge on the court security management committee in each county. Motion passed unanimously. Discussion was also held about the creation of an incident reporting system. Director Cameron circulated a draft of a form that was created by the Commission that can be filled out by law enforcement, judges, or court staff personnel. The completed forms will be submitted to Joe Hartigan, the Court Security Officer at the Wyoming Supreme Court. The Office of Homeland Security will also be informed of each event. The reporting system will generate data that will help in developing further security measures.

Justice Kite commended Director Guy Cameron and Eydie Trautwein for the tremendous job that they've done on this effort.

**CTAC – WyUser/Docket Management, E-Filing, Calendaring** – Justice Davis provided an update on the District Court WyUser system. He explained that due to numerous accounting errors and delays on searches and entries that were upwards of 15 minutes, a meeting was held with a vice president from Thomson Reuters to see what could be done. Work was suspended on the chambers module, the e-filing system, and the circuit court case management system. One of the company's database technicians spent part of a week with several of the Supreme Court's IT staff to work on these problems. Justice Davis reported that a new release was issued that reduced the delays to a maximum of 15 seconds and resolved a large number of the accounting problems. He indicated that work on the e-filing system and the chambers module will resume soon.

### **Judicial Learning Center**

Justice Kite gave a presentation on the development of the Judicial Learning Center that is being built in the State Law Library at the Wyoming Supreme Court. She explained that

this will be an interactive facility where the public can learn about the rule of law. The layout and plans for the Center, which is modeled after the Colorado Learning Center, were reviewed by the Board. The members also viewed a movie that the Court is obtaining authority from Colorado to use in the Center. A discussion was held about the \$280,000 one-time request that was approved by the Legislature, and about the requirement that this amount be matched by private monies. Justice Kite informed the Board that the Judicial Ethics Advisory Committee recently issued an opinion stating that third-party entities may accept private donations on behalf of the Administrative Office of the Supreme Court to match funds to support the development of the Center. She also advised that the Court is awaiting an answer on an additional question that was presented to the JEAC that asks whether or not the Supreme Court can apply for publically available competitive grants from private foundations whose stated purpose is concerned with education of the public on matters related to the law.

### **Domestic Relations Expedited Marriage Dissolution Pilot Courts**

Justice Kite informed the Board that the courts that have expressed an interest in being pilot courts to test the Temporary Rules for Expedited Marriage Dissolution Cases are: Cheyenne, Gillette, Laramie, Newcastle, Sundance, Torrington, and Wheatland. She explained that courts of different sizes and caseloads were chosen to help determine the effectiveness of the temporary rules. This process will begin being utilized on January 5<sup>th</sup>.

### **Retired Judges' COLAs**

Joann Odendahl reviewed the report that Ruth Ryerson from the Wyoming Retirement System Office provided on the Judicial Retirement Plan. She noted that the report supports the information that Ruth related to the Board at the June meeting, which is that the Retirement Board does not feel that this particular plan is actuarially sound enough to provide a COLA at this time. Joann suggested that Ruth be asked to give an update to the Board in another year to review the status of the plan.

### **CJE Credit for Service on Bar Association Committees**

The Board reviewed an amendment to the Rules for Continuing Judicial Education which would allow members of the judiciary to receive Continuing Judicial Education credit for serving on select committees. Discussion was held on the proposed amendment and changes were made. Judge Castor moved and Justice Fox seconded a motion recommending to the Supreme Court that the proposed amendment to Rule 3 of the Rules for Continuing Judicial Education, as amended, be adopted. Motion passed unanimously.

## **New Business**

### **Evidence Based Sentencing; Overview of WY Corrections Resources**

Bob Lampert (Director) and Steve Lindly (Deputy Director) of the Wyoming Department of Corrections gave a presentation on using data and evidence to guide policy on how best to do three things: hold offenders accountable, enhance public safety, and make the best use of the state's resources. Bob Lampert reviewed various statistics regarding Wyoming's population growth, prison population growth, crime rate growth, and the average length of a prison sentence. He pointed out that with the current prison population growth, projections show that the state will run out of prison beds in 2017. He asked that the

judiciary review the data and identify what might be driving prison growth. Bob explained that the Wyoming Department of Correction's mission is to maintain security while preparing inmates for successful reentry into the community, but that the Department has shifted its focus to the second part of the statement which concentrates on helping the inmates to be successful and to actively provide them with opportunities to change. He indicated that they do this by applying the "Principles of Effective Correctional Interventions," which have been shown nationwide and internationally to reduce recidivism by .55. Most of the people who are returning to prison are doing so as a result of a probation violation. Bob commented that the Department of Corrections is hoping to move from the cookie cutter probation conditions to more risk based or needs based conditions. He pointed out that in 2011 Wyoming had the second lowest recidivism rate in the nation, and that the state currently has the lowest recidivism rate.

Steve Lindly explained that the Joint Judiciary has encouraged the Department of Corrections to determine if the resources that are being spent on the correctional system can be put to better use and enhance public safety. He indicated that the DOC has begun a pilot of the Northpointe COMPAS Risk Assessment which helps to predict and reduce recidivism. It is being used in the northern half of the state, and the goal is to move it out to the rest of the state. This information helps inform the courts on whether other resources in the community could be used for low risk individuals that would provide the same level of service, enhance public safety, reduce costs, and reserve a prison bed for a higher risk individual.

The Wyoming Department of Corrections is requesting that the judiciary look at the Pew Research Center's data review in order to formulate policy solutions. The DOC is also asking for support to continue the Northpointe COMPAS Risk Assessment pilot and to ascertain if it is providing valuable information; if not, to then determine if assessments such as the DUI or Domestic Violence scales would provide better information to enable the courts to make the best decision possible for each individual.

#### **Revisions to Rule 8, WRCPPC, and Rule 3, WRCrP**

Judge Castor reported that some circuit court jurisdictions are having difficulties with Rule 8 of the Wyoming Rules of Civil Procedures for Circuit Courts, which defines how many requests for production, interrogatories, and requests for admission may be propounded. He related that a request was made to modify Rule 8 to include "all discrete subparts." Discussion was held. Judge Roberts moved and Judge Castor seconded a motion recommending to the Supreme Court that the amendment to Rule 8 of the Wyoming Rules of Civil Procedure for Circuit Courts be adopted. Motion passed unanimously.

Discussion was held on Rule 3 of the Wyoming Rules of Criminal Procedures. Judge Castor explained that the proposed amendment deals with how the process of amending electronic citations should be handled. He indicated that the Circuit Court Judges have requested that this rule be sent back to their Conference for further review. The Conference will have its proposed revisions ready for the Board's December meeting.

#### **Rule 4, Wyoming Rules of Civil Procedure**

Angie Dorsch, the Executive Director of the Wyoming Center for Legal Aid, explained that this amendment clarifies and brings Rule 4 in line with a standard practice that is being

used by attorneys and with a form that is available to self-represented litigants in the pro se packets. She explained that in lieu of personal service on a party, the party or authorized agent can accept service by signing and filing an Acknowledgement and Acceptance of Service form. This method of service is mentioned in Rule 3 in determining when a case is commenced, however, there is not a provision in Rule 4 that provides for this practice. Discussion was held and revisions were proposed. Judge Campbell moved and Judge Castor seconded a motion recommending to the Supreme Court that the proposed amendment to Rule 4 of the Rules of Civil Procedure, as amended, be adopted. Motion passed unanimously.

#### **Access to Justice Update**

Justice Fox advised the Board that she is the new chair of the Access to Justice Commission. She reported that a draft is being prepared of the AJC's strategic plan of the issues and initiatives the Commission will address in the next five years. Justice Fox commented that the Wyoming Center for Legal Aid has accomplished a great deal, including automation of a set of pro se packets, creation of guardianship forms, and creation of a video that encourages pro bono participation.

#### **Chief Justice Conference Update**

Chief Justice Burke informed the Board that in July he attended his first CCJ-COSCA conference in West Virginia. He spoke about an excellent presentation that was given that dealt with elder law titled "The Silver Tsunami." He explained that while there is a lot of attention paid to juvenile issues, the elderly population is a very vulnerable group of people. Chief Justice Burke stressed that the judiciary needs to become more involved in the Wyoming State Plan on Aging. He expressed a desire to form a committee or task force to look into this matter. Joann Odendahl indicated that the National Center for State Courts is gathering nationwide statistics. The Center developed a survey that she sent out to the district court judges, however, only a few forms have been returned. Judge Campbell offered to encourage the judges to complete this survey. He will also consult with the District Court Conference to see if there is a method by which they could collect orders from the courts concerning guardianship and conservatorship matters for the purpose of developing a set of standard forms. Judge Campbell will report back to the Board at the December meeting.

#### **Public Trust and Confidence/Judicial Leadership**

Chief Justice Burke commented that he believes in the quote "Better informed citizens tend to have more confidence in their state courts, are more likely to see judges' decisions as fair, and more highly value an independent judiciary." He stressed that the judiciary needs to do more with regard to public education, and that it needs to create ways to communicate more effectively with the public so that our citizens will be better informed. Chief Justice Burke emphasized that educational programs need to be conducted in every judicial district, not just in Cheyenne. He also urged the judges to continue to work on their time management practices and deadlines.

### **Miscellaneous**

Chief Justice Burke wished Joann Odendahl the best in her retirement, and thanked her for her 33 years of service to the State of Wyoming, 16 years of which were with the Supreme Court. He related that all of the courts will miss Joann's leadership and counsel.

Meeting was adjourned.

#### **Schedule of Future Meetings:**

December 3, 2014 (videoconference)

Approved by email on November 13, 2014.