

Board of Judicial Policy and Administration
Minutes
March 26, 2008

The Board of Judicial Policy and Administration met in Cheyenne on March 26, 2008. In attendance were Chief Justice Barton Voigt, Justice Jim Burke, Judge John Brooks, Judge Jeff Donnell, Judge Mike Huber, Judge Robert Castor, and Judge Victoria Schofield. Holly Hansen and Ronda Munger also attended. Justice Marilyn Kite and Judge John Perry participated by phone.

Old Business

Committee Updates

Court Technology Advisory Committee - Chief Justice Voigt reported to the Board regarding the progress of CTAC, which met in Cheyenne on March 20th. He praised the IT staff at the Supreme Court, explaining that they are in the process of completing multiple projects and how much work there is to do. The Big Horn River adjudication case is going well. That project included putting an enormous amount of documents online so that the parties and lawyers can access them electronically. The roll-out of the wireless access to the district court is proceeding as planned. Chief Justice Voigt mentioned the pilot projects in Casper, Basin and Buffalo and the use of imaging equipment. He also mentioned a project that is moving forward involving the Highway Patrol and the electronic transfer of citation information. The citation project has a lot of hurdles to get over because not only does it involve the Highway Patrol, but it will require all the municipalities to switch to a universal criminal code format.

The Board discussed e-filing in the trial courts. Initially, it was thought that e-filing in the trial courts was going to be delayed for a few years, but it now appears that it will happen sooner than later. Storage of documents and lack of storage space is driving the use of imaging equipment. If attorneys are filing documents electronically it is not necessary to scan documents. CTAC believes that e-filing at the trial court level should begin just as it did at the Supreme Court, with e-filing initially only involving the criminal cases. The "audience" in criminal cases in the district courts is primarily the same as the Supreme Court and it makes most sense to start there. The Board agreed that having e-filing in the trial courts in criminal cases first is a good approach.

Court Security Task Force - Judge Donnell reported on the work of the Court Security Task Force. The court security bill (SF 42), which established a Wyoming Court Security Commission, did pass during this Legislative session and the Commission will begin its work in early July, meaning the task force will no longer need to exist. The Commission is commanded to establish standards, establish minimum facility and equipment requirements, develop court security protocol and procedures, and make recommendations on funding to the Legislature. The Chief Justice is to appoint a justice and the Board is to appoint a district judge and a circuit judge. The Board decided to ask the individual judicial conferences to select their own appointee at their April meetings and report back to the Board. The Board will approve those appointments by email. Judge Donnell also reported that the Law Enforcement Academy held its first week long class on court security and twenty-two individuals participated.

Judicial Retirement Committee - Justice Kite reported to the Board the progress of the retirement committee. The retirement bill (SF 68) passed this Legislative session, and Justice Kite commended the judges for the unified effort that was achieved and for contacting legislators prior to the session to discuss the issues. Justice Kite was very pleased with the process this year. The Board discussed moving the process forward and engaged in discussion about getting the remaining judges into the system. The Board discussed letting some time pass before immediately working to change the system again. Justice Burke suggested the Board contact the judges in the old system to see if they want to attempt additional changes. Judge Castor agreed to contact the twelve judges remaining in the old system to see if there is interest in attempting to get those judges into the new system. Justice Burke also praised the Judiciary as a whole for putting forth a unified front. He stated that there were judges that did not agree with the proposed retirement changes, but he is not aware of any lobbying against the bill on the part of those judges. Justice Burke wanted to be sure to give them a lot of credit for their approach.

Legislative Committee – Chief Justice Voigt and Holly Hansen gave an update regarding the events of the legislative session. In addition to the details of specific legislation, Chief Justice Voigt shared with the Board that there was also some discussion with legislators about the delay of cases in the district courts. The main concern is that in some district courts it is taking one to two years to get a case resolved because the docket is not moving. One of the district judges explained that it is difficult to move civil cases through when the docket is constrained by the criminal cases and juvenile neglect jury trials. Those cases create a unique set of docketing problems because of statutory timelines imposed by the Legislature. Justice Burke suggested that each of the judicial conferences discuss some "best practices" about managing the docket in the trial courts. The Board agreed to take the issue of docket management back to their specific judicial conferences and discuss ways to be efficient in managing the docket.

Holly Hansen discussed a laundry list of bills that passed this legislative session. She had already emailed a copy of the bills to the judges, but covered them briefly with the Board. The list of bills are: SF 67 - Judicial Salary; SF 65 - Post Conviction DNA Testing Act; SF 64 - Valid Court Orders; SF 31 - Domestic Violence Counseling Period; HB 83 - Additional District Judge; and HB 44 - Crime Victim's Compensation. Justice Burke commended Chief Justice Voigt, Holly Hansen and Joann Stockdale for their hard work during the session. Justice Kite agreed and stated that it is equally important that the Supreme Court and Judges continue to have a lot of contact with legislators, especially in a session when we are not asking for a salary increase or some type of change. Holly also discussed the Joint Judiciary's Interim Study topics. The item that is most notable on the list is that the Joint Judiciary is going to take a look at the authorization process and creation of new judge positions. A second topic of note is that the Joint Judiciary is going to take a look at the charges and penalties imposed by all courts in DWUI cases. One final note, Holly advised the Board that during this legislative session the GAL program was transferred from the Supreme Court to the Public Defender's Office. The position that was housed at the Supreme Court was also transferred. There may be some rules changes that need to be made to cover the changes in the process, but that will be handled by the Supreme Court or the rules committees.

Clerks Advisory Council

Ronda Munger reported to the Board on behalf of the Clerks Advisory Council (CAC). The CAC over the past several months worked with Meg Martin and Katie Jones, law librarians at the Supreme Court, to develop a mediation pamphlet. The pamphlet was created by taking a look at mediation law in Wyoming and at mediation pamphlets of surrounding states. After an initial draft was created, the CAC asked Professor Johanna Bond at the U.W. Law School to look at the pamphlet. Professor Bond specializes in mediation and offered some suggestions for changes to the pamphlet. After some discussion, one more change was made to the pamphlet. Judge Castor moved and Justice Kite seconded a motion to approve the pamphlet. Motion carried unanimously.

Public Access to Court Records

Chief Justice Voigt led a discussion of the Board regarding public access to court records. Chief Justice Voigt believes the Board should establish a committee to draft an access to court records and access to administrative records policy. At this time, the Judicial Branch does not have a policy on either court records or administrative records. The Board discussed what kind of committee would be best to create the policies. The Board asked the Chief Justice to draft a letter to the Attorney General and to the president of the County Attorneys Association and ask both or either of them to chair or participate in a committee to create an access to court records policy.

Oath and Proof of Acknowledgement Policy

Ronda Munger reported to the Board regarding the status of the Oath and Proof of Acknowledgment Policy. During the past legislative session, the Wyoming Uniform Notarial Act (Notarial Act) passed the legislature, substantially changing the notary statutes in the State of Wyoming. The Notarial Act expands the powers of clerks and judges as notarial officers. The Board discussed at length the proposed Oath and Proof of Acknowledgement Policy in light of the new Notarial Act. The Board proposed changes to the policy. Judge Castor moved and Judge Huber seconded a motion to approve the Notary Policy as amended. Motion Carried unanimously.

New Business

Video Arraignments

The Board talked at length about video arraignments. Chief Justice Voigt was approached during the legislative session by the Sherriff's and Chief's Association and there is statewide interest in the use of video arraignments. The conversation was driven by concerns about security and economics. CTAC will be moving forward with a program to roll out video arraignment equipment in each location. Initially there will not be equipment in every courtroom, but the idea is to have the capability to do video arraignments in the district court and the circuit court in each location. Those courthouses that have multiple courtrooms for the circuit and multiple courtrooms for the district court will only have the capability in one of the courtrooms, until additional funding can be secured. Chief Justice Voigt is concerned that this project must be managed by CTAC, so that there are not 23 different kinds of equipment across the state. Judge Schofield explained that Sweetwater County is already in the process of installing video equipment. Justice Kite moved and Judge Donnell seconded a motion to request the Chief Justice send a letter to the county commissioners, the sheriffs, the judiciary, and the clerks of court requesting any installation of new video arraignment equipment be

delayed. Motion carried unanimously. Judge Donnell and Judge Castor proposed a change to Rule 5 of the Wyoming Rules of Criminal procedure. There are some judges who do not believe the rules as currently written allow for video arraignments, and the change would provide specific language to do so. Judge Donnell moved and Judge Castor seconded a motion to amend Rule 5, by adding the language, "with the initial appearance to be in person or by real-time electronic means, at the discretion of the judicial officer". Motion carried with 8 ayes and 1 no vote.

Email Decision Letters

Chief Justice Voigt led a discussion of the Board regarding the use of email decision letters. Some district judges are using email letters and documents as the official correspondence of the court. This matter came to the attention of the Supreme Court when on appeal an email decision letter was in the appellate file and the Court was not sure if there was a hard copy put in the original file. The Board discussed the matter and decided to take no action.

Legal Advice Signage

Holly Hansen requested the Board approve a new format for the court signage that explains what the clerks can do and what they cannot do. Basically, it is the sign that explains that the clerks can help the lay public, but cannot and will not give legal advice. The Board approved distribution of the signs to the district and circuit courts.

Domestic Violence and Stalking Forms

Judge Schofield made a presentation to the Board on behalf of the Forms Committee regarding changes made to domestic violence and stalking forms. The Committee is chaired by Judge Campbell, with Judge Arp, Judge Denhardt, Judge Schofield, Judge Patchen, and Dona Playton as its other members. The Committee met in person and by phone over the past several months to discuss changes to the forms that had been proposed by various circuit courts over the past year. The main overriding change was to make the first page, known as the face plate, consistent with the first page of the order, removing the duplicative information in the documents. There were some other minor changes, such as adding ammunition language to the Petitions as requested by the Attorney General. Judge Donnell moved and Judge Castor seconded a motion that the forms as proposed be adopted, and that their use be mandated in all circuit courts without alteration. Motion carried unanimously.

National Center for State Courts, Security Training

Chief Justice Voigt informed the Board that the Supreme Court has asked the National Center for State Courts to provide training for Judicial Branch employees on court security. The National Center has agreed to provide the training in two or three different locations and at different times across the state. The reason for the training is obvious. The Court wants to do all it can to provide a safe work environment for its employees. The Board agreed the training was necessary and a good idea.

Board adjourned 12:01 p.m.

Schedule of Future Meetings

June 25, 2008 Casper
September 17, 2008 Cheyenne
December 4, 2008 Casper

Minutes approved by email on April 14, 2008.