

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

Helena, MT

January 17, 2020

Members Present: Hon. Perry Miller, Hon. Steve Fagenstrom, Hon. Holly Frederickson, Hon. Kelly Mantooth, Hon. Jessie Connolly, Hon. Steve Bolstad, Tina Reinicke, Mary Ann Ries, Charlie Harball, Peter Ohman, and Hon. Jim Rice.

Members Participating Via Telephone or Video: Hon. Heidi Ulbricht

Members Absent: Peggy Tonon

Staff Present: Shauna Ryan

Guests: None

Judge Miller called the meeting to order at 8:35 a.m.

PUBLIC COMMENT: None.

OLD BUSINESS:

Minutes

The minutes from the meeting on November 15, 2019, were reviewed. Mary Ann Ries moved that the minutes be approved. Charlie Harball seconded the motion and it carried unanimously.

NEW BUSINESS:

COLJ Workload Study

There was discussion last year about possibly pursuing a statewide workload study like what has been done with the district courts for the past fifteen years. We did a workload study and then use the data every year to assess the workload in each of the district courts. It's been successful as far as securing new judges and giving us an idea from an administrative perspective on how to distribute resources among the courts. Beth spoke with the folks that did the district court study from the National Center for State Courts. They did both the workload study and performance measures for the trial courts and for the Supreme Court that we use in Montana. NCSC thinks the project would be a huge undertaking as there's no shared funding – it's individual funding across each jurisdiction in their city or county. There would not be a lot of commonality beyond the case types. She spent the better part of a week talking with folks across the country to see if it's ever been done before and if they felt it was something they could do. Their ultimate conclusion is that yes, they could likely do it, but it would be hard and really expensive. It would have some risks associated with it. We knew pretty concretely walking into the district court workload study that what most of the study was going to show is that most of the districts were under resourced. In the case of the limited courts, they may be over resourced and do we want that information out there? That's the risk of a data driven study. One option might be to request a grant through the State Justice Institute for one county or one jurisdiction take on a workload study and see what it

looks like and then decide if we want to replicate it across the state. Beth's conclusion after talking with the NCSC is there's way too much expense and risk associated with trying to do something statewide. There are so many differences among the courts. In the district courts we're only measuring the workload of the judge. The clerks are independently elected county officials. We're only looking at the work that touches the judge's desk. Within the limited courts, however, the clerk and the judge are part of the same office. This adds another level of complexity because you can't ignore the workload of the clerk and what about the courts that don't have a clerk. The best option is to request a grant through SJI to possibly fund a study in one jurisdiction. We'd also want to look at case processing or performance measures, like what we've done with the Supreme Court and district courts. When deciding if something could be done at the limited court level, the NCSC spent time reaching out to other jurisdictions that she thought maybe had done something statewide and really the only thing she could identify at the limited court level are local jurisdictions. Judge Miller asked if when they did the district court workload study did they come out with some kind of a formula that establishes staffing and judicial caseload? Beth showed the Commission the actual report that they get from the district courts. It lists the case types and then how many minutes on average for each of the case types, and then we plug it into a formula and end up with what is the judicial demand in each judicial district. We also include travel because we have circuit judges and need to account for that too. What we end up with today in the Montana district courts is that we need 20 additional judges in total. Workload studies are most effective when everyone participates in the data collection. On the data side, when you're doing the data collection, it's an eight-week period where judges are recording in 15-minute increments what they are doing. It's divided into case types and then divided into tasks within those case types. Judge Fagenstrom asked what they would be able to do with the study. Beth thought if there was a county or court that wanted to do this, our office could work with that court to get the grant written and funded and then it would be an experiment. Judge Connolly asked if the collection factored in the judge's longevity. How do you ever create the correct collection? We know that statistics are only as good as what was collected. Judge Ulbricht asked Beth if the limited courts could start with performance measures – timelines and best practices for how long a case should be opened. Beth thought it may be a possibility, but she'll have to check with the NCSC. Tina Reinicke was happy to volunteer her court to move forward with the project. She can't volunteer the entire 4th Judicial District, but does think she can get Judge Beal, Judge Holloway and the three municipal court judges to move this forward. Missoula County received a grant from the McArthur Foundation related to jail diversion. There is now a Missoula County Criminal Justice Coordinating Council that is at work trying to study the idea that too many people are sent to jail or how do we keep people out of jail. Quinn Zeigler, a data analyst for the Missoula County Criminal Justice Coordinating Council, provided a written public comment because he was unable to attend this Commission meeting. Tina Reinicke read Mr. Zeigler's letter into the record. Tina Reinicke agreed to talk to her judges about moving forward with a possible workload study being implemented in just Missoula subject to some funding and assistance from the NCSC. Beth will talk to her contact at the NCSC. Beth reiterated that her personal effort over the next six months will be on updating the district court workload study. It may be a project the court is able to take on in late spring/early summer if it can be funded by a grant.

OPD Access to Full Court

Peter Ohman inquired about the OPD having access to FullCourt in different jurisdictions and if that was a clerk decision. Those requests are a clerk function. Tina Reinicke commented that at the last Automation Committee meeting they refined the user rule and there is now a public defender user rule. What the state learned was that some of the user roles security features were not functioning consistently in the background. For instance, you might get information in your user role that the court may not allow sealed cases. So that has been refined and Tina has signed roughly 30 requests in the last month for access. Beth added that one caveat they are working on is that's the process for Enterprise because it's web-based, but if it's still V5 there are some IT complexities that impact staff resources and potentially financial stuff. Judge Bolstad added that in Great Falls they are still V5 based and their IT won't allow public defender access unless it's within the building and even then, it's very limited.

Beth added that Judge Wheelis is currently working on a study and report to provide to the Commission on Technology. It will address two primary issues: 1) What is public information? 2) How do we provide public access to folks electronically? He provided Beth with a draft email that he intends to send out to all the courts of limited jurisdiction and asked that the Commission review the same and approve before he sends it out to everyone. The Commission reviewed the letter and thought it was fine to send with the suggestion that he make it clear the statute he refers to is for South Dakota and not Montana.

Spring Conference Agenda – Update

Shauna Ryan reported that most of the presenters had been contacted and are on board to teach at the spring conference. There were no issues to date.

Request for Temporary Certificate and Waiver of Training for New Judge

Hon. Teague Westrope and Hon. Elaine Egeland: On behalf of the waiver committee, Mary Ann Ries reported that Peggy Tonon approved the temporary waiver of training for Judge Westrope and she had approved the waiver for Judge Egeland. The Commission concurred with the waiver committee's recommendations.

Mary Ann Ries Retiring in August

Mary Ann Ries reported that she will be retiring in August and she anticipates that the County Attorney's Association will be making a recommendation for her replacement on the Commission at its conference in June. She encouraged the Commission members to talk with a county attorney they think would be appropriate and beneficial on the Commission.

Meeting Adjourned: The meeting adjourned at 10:30 a.m.

Next Meeting Date: The next meeting will be February 21, 2020, at 8:30 a.m. in Helena.

May 23, 2022