

MINUTES

Commission on Courts of Limited Jurisdiction
301 S Park Ave, Room 328, Helena
February 16, 2007

Chairman, the Hon. Johnny Seiffert, called the meeting to order at 8:35 a.m.

Members Present: Hon. Johnny Seiffert, Hon. David Ortley, Prof. Margaret Tonon, M. Shaun Donovan, Paul Luwe, and Barb Pecos.

Present Via telephone was Hon. Perry Miller, Hon. Doug Harkin and Hon. Gayle Stahl

Present via vision net was Hon. Mary Jane Knisely

Staff Present: Beth McLaughlin

Guests Present: Hon. Larry Carver and Lois Menzies

PUBLIC COMMENT: None.

MINUTES: The minutes from the January 19, 2007 meeting were reviewed. A motion was made by Prof. Tonon and seconded by Judge Ortley that the minutes be approved as written. The motion passed unanimously.

OLD BUSINESS:

Court Monitoring Program: Beth McLaughlin reported that she has not received the draft "court watch" document yet.

TO DO: Beth will follow-up with Ms. Hill-Hart to find out whether the information is available yet. Beth will forward it to all Commission members when it becomes available.

Filing Fess: Paul Luwe requested that this item be placed on the March agenda.

TO DO: Staff will place this item on the March agenda.

Spring 2007 agenda: The Commission made several changes to the agenda and approved it.

TO DO: Staff will schedule speakers and prepare the conference. Staff will notify all members of the curriculum committee of the curriculum committee meeting on April 30 from 8 a.m. – 11 a.m. in Red Lodge.

Request for Audit of Records: Hon. Audrey Brown wrote a letter to the Commission requesting that a member of the Commission or a training judge be sent to the City of Conrad Judge's office to help with an audit of the former Judges' records. Judge Miller talked with Judge Brown and will visit her court to provide assistance to her.

Judge Not Afraid - Elected Offices

Judge Seiffert reported that he visited with Judge Not Afraid. He has resigned from the school board but was still on the tribal seat. Judge Seiffert reported that he offered to provide on-going assistance to Judge Not Afraid as needed.

City Judge Appointments: Beth reported that a review of the appointment notices for city court judges showed that many cities were appointing judges for less than four years. Mr. Luwe suggested that the Commission write letter to the cities asking them to review the appointments lengths, the statute and the letter ruling regarding appointments when making city court appointments.

TO DO: Beth will draft a letter for Mr. Luwe's review.

Mr. Jim Taylor, Chairman of the Public Defender Commission appeared via video

Prof. Tonon asked Mr. Taylor to meet with the Commission and answer questions about a number of items that have come from judges. Mr. Taylor told the Commission that many of the issues are addressed through policies or forms on the website. [Office of the State Public Defender](#) Specific information included (*please note that items were bulleted and do not reflect a transcript of the discussion*):

- How is indigence determined? Mr. Taylor noted that it's based on income or hardship to the family and that guidelines are available on the website. Judge Seiffert questioned him about one instance of a defendant getting assigned a public defender when the defendant owned land and had a job. Mr. Taylor directed the Judge to the regional office. The regional office makes the determination in each case so specific questions should be addressed to the regional office.
- Judge Ortley asked whether the OPD was still seeking reimbursement as appropriate. Mr. Taylor noted that they were seeking reimbursement but preferred not to have it in the judgment or as a condition of a suspended sentence. He noted that the policy is on the website.
- Mr. Luwe asked about the standard for appointing counsel when jail time is a not a possibility. Specifically, what is the process if the only judgment is a fine with no jail time. Mr. Taylor noted that if jail time is a possibility if the person fails to comply with the sentence, than it would be appropriate to appoint counsel given *Alabama v Shelton*.
- Judge Seiffert noted that the OPD appointed counsel for a no insurance ticket, which struck him as unnecessary. Mr. Taylor directed him back to the regional office as he didn't know the specifics of the case.
- Judge Knisely noted that she was concerned about the number of defendants pleading not guilty and sitting in jail for a significant amount of time on cases

involving minor offenses such as loitering when the defendants could have been out with a not guilty proceeding. Mr. Taylor noted that jail time was a possibility and that a person's criminal record is cumulative so it would be appropriate to appoint a public defender in this case.

- Mr. Luwe asked what the standard caseload was for a public defender. Mr. Taylor did not have the information readily available but referred him to the standards on the website.

Mr. Taylor stated that he would be very interested in holding a joint meeting with the COLJ and his Commission in the future. Commission members indicated that they were interested in pursuing this also later in the spring and would be in touch. Judge Seiffert thanked Mr. Taylor for speaking with the Commission.

TO DO: The matter of holding a joint meeting with the Public Defender Commission will be placed on the March agenda.

Automation Committee Update: Judge Larry Carver addressed the Commission on behalf of the automation subcommittee. The automation committee is concerned that the Department of Justice modified a form used for driver's license suspension in a way that is incorrect. Mr. Carver sent a letter to Dean Roberts of the DOJ asking for information about why the form was changed. He has not yet received a response. Judge Carver also noted that the subcommittee has asked to stop the automatic processing of suspensions until the issue is resolved. Several Commission members noted that the DOJ interpretation could be correct. Judge Ortley requested that Judge Carver call Mr. Roberts and ask for a response. Commission members agreed to hold the matter over until the March meeting.

TO DO: The matter will be placed on the agenda for the March meeting and Judge Carver will be asked to provide an update.

Legislative Items: Judge Seiffert notified the Commission about two bills that the MMA were following. HB722 would require that all courts be courts of record. The MMA will oppose the bill. HR16 would require a study of the fish and game statutes. MMA is supporting this study because of the confusion within the fish and game statutes.

1099s for Travel Expenses: Becky Buska, financial services director, met with the Commission to explain why members were receiving 1099s for travel expenses. Ms. Buska noted that the IRS regulations required that the state issue 1099s for all income paid to board members and that the definition of income included travel expenses. Judge Seiffert asked if they could send out a break down of the expenses for board members to use during tax season. Ms. Buska agreed.

TO DO: Ms. Buska will prepare a breakdown of the 1099s for each Commission member.

Mentor Letter: Judge Knisely presented a draft letter for mentors to send to their assigned judges. Commission members commended the work and approved its use.

TO DO: Staff will send the mentor letter to the assigned mentors and ask them to send the letter to the assigned judges. Mentors were assigned as follows in January:

Judge Budeski - Mentor Judge Snowberger

Judge Fagenstrom - Mentor Judge Carver

Judge Landa - Mentor Judge Neese

Judge Mann - Mentor Judge Miller

Judge Not Afraid - Mentor Judge Seiffert

Judge Sullivan - Mentor Judge Ortley

Next Meeting Date: The next Commission meeting will be Friday, March 16, 2007 in Room 328 of the Court Administrator's Office, at 301 S Park Ave, in Helena, Montana. The meeting will begin at 8:30 a.m.

Adjournment: The meeting adjourned at approximately 11 a.m.