

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

Helena, MT

August 15, 2025

Members Participating: Hon. Kelly Mantooth, Hon. Kerry Burman, Hon. Maureen O'Connor, Hon. David Grubich, Hon. Steven Bolstad, Hon. Jim Rice, Melissa Rosaaen, Hon. Jessie Connolly, Greg Sullivan, Nicole Siefert, Jeanne Torske, and Brian Smith.

Members Absent: Hon. Steve Fagenstrom

Staff Present: Shauna Ryan

Guests: None

Judge Mantooth called the meeting to order at 8:30 a.m.

Public Comment: None

OLD BUSINESS:

Minutes

The minutes from the meeting on June 20, 2025, were reviewed. Judge Burman moved to approve the minutes. Judge O'Connor seconded the motion, and it carried unanimously.

Judge Deskbook - Update

Judge Mantooth reported that he has requested a draft of the updated Deskbook by the September meeting. Judge Mantooth indicated that the updates would be submitted in sections, and he would forward them to the Commission for review.

Fall Conference Agenda – Update

Shauna Ryan reported a couple of changes from the prior meeting. We were unable to recruit any of our Supreme Court justices to prepare the Supreme Court Case Law Update due to scheduling conflicts, so Jeff Wilson with OPD and Christine Hutchison with ASB have both agreed to provide the update. Judge Dryden is going to teach Mental Preparation for a Critical Incident and Courtroom Security. Judge Mantooth had requested an outline of what his presentation would look like, and he followed up and sent an outline and it looked good. Brian Smith said it would look better if Judge Dryden said we were dealing with defendants and not criminals and civil litigants and people who are presumed innocent. Judge Mantooth responded that he's probably thinking they are criminals if they are trying to raise heck and attack the judge or the judiciary. They are always innocent until proven guilty, but this is about courtroom safety. Brian Smith was concerned that we are weaponizing judges. Judge Mantooth responded that Judge Dryden's offer to talk about the different types of guns and fit folks for one if interested is all after hours and strictly optional. That won't take place during his actual presentations. Brian felt the commission was dancing on the head of a pin. Judge Mantooth thanked him

for his input. The topics are those that every single one of us can use in our everyday life; it's all about critical incidents and your mind and thinking. It all comes down to muscle memory. It's no different than the active shooter training provided at the schools, courtrooms, and corporate offices. Judge Mantooth read the portion of Judge Dryden's email where he specifically says "In addition, I would like to let our judges know that I will be available from 7-9 p.m. on Tuesday evening to help with specifics, including bringing multiple weapons of different sizes, to help show the judges how to fit/select the right weapon for their use, if desired". It won't be on the agenda nor is the Commission sanctioning the activity. The Commission will not be making the announcement and will in no way be involved in promoting attendance. Judge Grubich commented that the Commission is not training judges to be experts in self-defense. These training courses are meant to give the judges some insight into a particular area. It's left up to the judge to process the information and think more about it on his or her own. He didn't think it was a bad idea to talk about being mentally prepared for situations that could happen, though rare. Shauna will send a copy of Judge Dryden's curriculum vitae to the Commission members. Shauna reported that we did add another break-out option for judges without clerks who have Full Court questions. We've had some judges without clerks in the past that have requested more time with the Full Court trainers. Judge Mantooth asked more about the banquet on Wednesday night. Judge Connolly reported that Judge Holloway inquired about the cost of food and what the ticket prices will be. Judge Connolly responded that the ticket prices will be the actual price of the dinner, but no more than \$50 per person. Judge Holloway was relying on the typical \$25 per person so that increase will help with the banquet costs. Judge Connolly did approve an extra \$2,500 as needed – which is allowed for in the MMA bylaws. Judge Burman requested that during the Legislative Updates session that Rebecca Meyers only touch on legislation that specifically applies to the judges and courts. Nicole Siefert indicated she would like to attend some of the conference and wondered if there were particular break out topics that are important to attend as a committee member. Judge Mantooth explained that the breakout sessions are divided into justice court judges, the municipal court judges, and the city court judges all in different rooms. There are several members of the Commission that moderate the breakouts. He offered that maybe she could spend one hour in one session and then another hour at another breakout session. Judge Grubich also thought any of the sessions would be helpful for her to attend.

NEW BUSINESS:

Request for Temporary Certificate and Waiver of Training for New Judge

Hon. Joseph May (Polson City), Hon. Debra Killion (WSS City), and Hon. Wade Riden (Phillips County/Malta) – On behalf of the waiver committee, Judge Grubich recommended the temporary waivers be approved. The Commission concurred.

Request for Waiver of Training for Fall 2025 Conference

Hon. Randi Braddock, Hon. Mary Leishman, Hon. Eric Bailey – On behalf of the waiver committee, Judge Grubich recommended the waivers be approved. The Commission concurred.

Brian Smith requested that the Commission readdress the mandatory in-person training idea. This discussion will be added to the September meeting agenda.

Email from Jeanne Torske re: issues raised at the MCAA Board Meeting

Judge Mantooth reported that Ms. Torske had sent an email to the commission after the recent MCAA board meeting indicating that there were some concerns among prosecutors about judges refusing to sign motions to dismiss – typically non law trained judges. The judges have discussed this issue frequently on the list serv.

Judge Mantooth referenced a couple of Judge Grubich's recent cases on appeal where prosecutorial discretion was at issue. Judge Grubich thought there was a difference between separation of powers and prosecutorial discretion. In his experience, a lot of prosecutors believe that if they want to dismiss the case then that's the end of the question. But we have a statute - 46-13-401, MCA - that requires them to demonstrate that there's good cause and that the dismissal is in the furtherance of justice. There is very limited case law on that issue. The prosecutors need to indicate to the court why they are requesting a dismissal of the case. Judge Mantooth requested that Ms. Torske let us know who the judges are so that the Commission can visit with them and find out what's going on. Brian Smith wondered if this is an area of law that the Commission should provide some training. Greg Sullivan commented that they have had this issue come up several times. There is a balance between the discretion that we have as prosecutors and the responsibility to the court. There have been circumstances where there are things that a prosecutor thinks are not in the interest of justice to reveal to the court. They've had circumstances where they don't have sufficient evidence and those types of things. They do say something on the record and can demonstrate that there is something behind their rationale to dismiss the case; they have the responsibility to do that – it just can't be that we request the case be dismissed, period. There is caselaw in other jurisdictions – not in Montana – that seems to indicate that the courts have a responsibility is to investigate whether there is fraud or corruption in a decision to dismiss. This ensures that prosecutorial discretion is not being abused. It's an interesting discussion that we should continue to have, and training may be good. We need to be diligent about what the standard would be for both the prosecutor and the judge in review of the motion to dismiss. Judge Mantooth thought Greg, Brian and Judge Grubich would make up a great panel for the training. We should consider this training for the spring conference. Jeanne Torske reported that during the county attorney's executive board meeting some of the board members requested that Jeanne ask the Commission may need to provide some training in this area. The issue involved certain judges not wanting to sign the proposed orders to dismiss a case. Judge Connolly thought it would be important to address the deferred prosecution piece during the training next spring.

Ms. Torske also had a question about whether there was a limited court judge on the statewide Courthouse Safety and Security Working Group. Judge Donna Whitt is a member of that working group. She was originally appointed as the sheriff member but continues to hold a seat since being elected to the bench. That working group was established through the District Court Council.

Arraignment Court in Yellowstone County

Judge Bolstad requested that we also revisit this topic at the September meeting. He did not have a lot of information as he and Judge Dunn had not had an opportunity to sit down and thoroughly discuss this yet. Judge Dunn is a member of the Criminal Justice Oversight Committee and is representing the municipal courts. Judge Carter gave a presentation before the Committee saying they want to have an arraignment court and wanted to bring forth legislation on that matter. Judge Mantooth indicated that Yellowstone County has already established an Arraignment Court. The municipal courts are not involved at this point. Ultimately, it's set up on a rotation basis with the JP's and district court judges in Billings and for a certain period one judge conducts all the initial appearances and arraignments. That judge would be acting as a magistrate or special master. The justices of the peace are only examining courts they are not arraignment courts. He thinks it becomes a constitutional issue when justices of the peace are conducting arraignments in felony cases. Brian Smith indicated the purpose of the arraignment court is to get people seen and out of jail and set bonds. Judge Mantooth asked if the Public Defender's Office is going to ensure that defendants have proper and immediate representation; Brian responded absolutely. Judge O'Connor commented that when she was practicing in California as a deputy district attorney, that was how the courts were set up. When she initially reviewed the proposal – other than potential issues that could be changed through legislation – she didn't see it as a huge issue. They had what they called a "home court system" where you had Superior Court Judges assigned to home courts in the jail. They would have a courtroom set up in the jail and would have the inmates brought in, along with the public defender and district attorney, and they go through the initial appearance and arraignment

process and setting bond. Her concern would be that if they try to extrapolate this statewide. Every jurisdiction is different and what might work in a large jurisdiction won't necessarily work in other locations. She didn't know if it would fit Montana as a statewide policy to institute. Judge Grubich indicated that in his jurisdiction the judges are each assigned a day of the week to conduct initial appearances for the sake of judicial economy. He didn't think that there would be a constitutional violation. Judge Connolly believes that arraignment is a part of the process – it's not a jurisdiction. She didn't understand how the felonies would come into the court and then be disseminated. Where do they go? Would they be filed in Full Court in the justice court and the justice of the peace would accept a guilty plea and then it would somehow be transferred to district court for sentencing? She wondered how this is an efficient process if the goal is to get people seen. Judge Grubich felt it does come down to efficiency and time. Judge Mantooth thinks if the district court judges want to get together in their own district and rotate between the district court judges for initial appearances and arraignments – great, but they shouldn't be tasking the lower courts with it. Brian Smith recommended that everyone listen to the discussion held on the matter before the Criminal Justice Oversight Committee at its meeting in July. Judge Bolstad wondered if an elected official can be appointed to perform another duty – would that person then be holding two offices? It may likely be an issue for a court to decide.

Other Miscellaneous Matters

Judge Molloy issued a final order in the Looney v. Karolina Tierney and J. Colleen Herrington (Bozeman Municipal Court) on August 11, 2025. The matter was dismissed with prejudice, each party to pay its own costs. It had been determined prior, that the judges were not covered by judicial immunity for refusing to honor Looney's bonds. Greg Sullivan offered to forward the decision and stipulation to the commission the following week.

Adjourned: The meeting adjourned at 11:15 a.m.

Next Meeting Date: The next meeting will be Monday, September 22, 2025, at 1:00 p.m. in Missoula.