

## MINUTES

Commission on Courts of Limited Jurisdiction  
301 S Park Ave, Room 328, Helena, Montana  
November 18, 2005

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

**Members Present:** Hon. Johnny Seiffert, Hon. Scott Wyckman, and Paul Luwe.  
Members attending via video conference: Prof. Margaret Tonon, Sharon Skaggs, Hon. Mary Jane Knisley. Members attending via telephone conference call: Hon. Doug Harkin, Hon. Gayle Stahl and Shaun Donovan.

**Members Absent were:** Justice Jim Nelson, Hon. Perry Miller and Hon. David Ortley.

Staff Present: Beth McLaughlin, Karen Sedlock.

Guest: Hon. Larry Carver

**MINUTES:** A motion was made by Prof. Peggy Tonon and seconded by Hon. Scott Wyckman that the minutes of the October 3, 2005 meeting be adopted as written. The motion passed unanimously.

**PUBLIC COMMENT:** None.

### **OLD BUSINESS:**

**E-Ticketing:** Lt. Bryan Lockerby, from the Great Falls Police Department was scheduled to give a demonstration on E-Ticketing. Lt. Lockerby informed Karen Sedlock and Judge Wyckman that the equipment from APS did arrive but a critical connector to the D/L swipe was not included in the shipment. As a result, the complete system is not in place and Lt. Lockerby agreed to do his demonstration in January instead.

**TO DO: Staff will place E-Ticketing on the January 20, 2006 agenda.**

**Leadership Institute:** Staff presented a draft letter of application to The Leadership Institute for the Commission's review. A motion was made by Hon. Gayle Stahl and seconded by Paul Luwe that the letter of application be submitted to The Leadership Institute.

**TO DO: Staff will put the proposal on letterhead and submit it to the Leadership Institute for their review and consideration.**

**On-line Education:** The first WebEx training was presented by the Law Library Staff in November. Six people attended and Beth reported it went well. The judges have been notified that another training will take place in January.

Judge Harkin stated he has been working on his Evidence web/based course. He has been looking at other websites and is putting together a basic session as well as a more advanced class. He requested that comments from the law library training be sent to him. Judge Harkin hopes to have the on-line training ready by the first of the year.

Judge Wyckman suggested developing training from frequently asked questions that are appearing on the bulletin board.

**TO DO: Judge Harkin will set up a WebEx course on Evidence by the first of the year. He will give a report at the January meeting.**

**Motor Carriers Requirements:** Shaun Donovan reported that he drafted an opinion letter as requested by the Commission but held on to it after becoming aware of MCA Section 61-11-101(5) enacted by the last legislature and effective October 1, 2005. The language in the statute seems to answer the question the Commission had intended to put to the Attorney General. Mr. Donovan suggested that the Commission withdraw their motion to request a formal opinion in light of this new statute. The Commission agreed and the matter will be dropped.

**Non-Attendance by Judge at Fall 2006 School:** The Hon. Ron Bissell, City Judge from Belt, Montana did not attend the mandatory fall training seminar. The Commission was informed that Judge Bissell has not been conducting court and has moved out of the area. Since this is a violation of the COCOLJ Judicial Education Policy, staff will call Judge Bissell and ask that he submit a letter of resignation. If he refuses or does not follow through, the matter will be placed on the January Agenda and the Commission will proceed under Rule 13. Judge Knisely will provide staff with Judge Bissell's telephone number.

**TO DO: Judge Knisely will provide staff with Judge Bissell's current telephone number. Staff will call Judge Bissell asking that he submit a letter of resignation. If he does not follow through, the matter will be placed on the January agenda.**

**Basic Orientation and Certification Test:** Beth McLaughlin reported that Judge Stokes retook his certification test and passed it. The Commission thanked Judge Perry Miller for the excellent job he did in mentoring Judge Stokes.

The approach to training new judges has been altered somewhat. After the training judge completes their initial training, a mentor is assigned by the Commission. The Hon. Jerry Churchill is the new city judge in White Sulphur Springs. Beth reported that Carol Anderson has completed her initial training and that the Hon. Gary Olson from Townsend has been assigned to mentor Judge Churchill and help him prepare to take his certification test. This method worked extremely well with Judge Kambich and Judge Stokes and the Commission is hopeful it will help other new judges through their initial six-months on the bench.

**Municipal Court Waivers:** Judge Harkin reported that pursuant to Sec. 3-10-311(2)ii, MCA, it is clear that a Justice of the Peace must obtain a waiver from the Committee for any substitute judge. City Judge and Municipal Judge waiver requirements are not mandatory. Sec. 3-11-204, MCA states that a city judge must attend two mandatory trainings per year but does not require obtaining a waiver for a substitute judge. Judge Harkin could find no statute requiring Municipal Judges to obtain a waiver for substitute judges.

Beth McLaughlin informed the Commission that the Court Administrator's Office currently requires all Justices of the Peace and City Judges to obtain waivers. Judge Harkin suggested that that practice continue. He also recommended that the Court Administrator's Office request a clean-up bill, by using the JP language for all three courts and ask the MMA to support the proposed legislative changes.

**TO DO: Staff will draft proposed legislative changes and submit it to the 2007 Legislature through the Court Administrator's Office.**

**Spring 2006 Draft Agenda:** A draft agenda was presented to the Commission for review. Several changes were made and staff will rewrite the agenda and forward it to the Commission for their review.

**TO DO: Staff will rewrite the Spring agenda and submit it electronically to all Commission members for their review.**

**Evaluations and Conference Costs:** Evaluations from both the Judges' and the Clerks' fall school were reviewed and discussed. Beth reported there seemed to be three main issues presented by the judges: (1) shutting of cell phone, (2) private discussions and continuous visiting during class by some of the judges and (3) sound system problems.

Another issued raised was presenters not repeating the question. In the future, staff will remind people to shut their cells phones off, and staff and commission members will remind people that they are being discourteous when they continue to visit during class.

Staff will look at the old audio system that the Supreme Court has and will bring it to the next conference as a back-up system if necessary.

Karen Sedlock prepared an itemized list of all conference costs. The Courts of Limited Jurisdiction brought in \$18,725 in revenue and spent \$19,073.15. The Clerks of Limited Jurisdiction brought in \$13,350 in revenue and spent \$13,977.68. Bottom line, both conferences cost more than what was collected through registration fees.

Judge Seiffert suggested raising the Judges registration fee to \$200. Judge Knisely recommended looking at a four-year-long-range plan and raise the judges registration fee

to \$250. That way the judges would not have to go back to their county/city commissioners every year and ask for more money.

There was a recommendation to raise the Clerks registration to \$200. Sharon Skaggs agreed with the increase stating that they Clerk's Association paid for the computer lab this past fall. If registration were a little higher, then those type of costs would not have to be absorbed by the Association.

Beth suggested tabling a vote on the actual amount until staff has an opportunity to justify an increase. Since hotel costs and mileage has increased, it will be difficult for some counties to come up with additional monies.

**TO DO: Staff will research future conference costs and submit justification at the January meeting.**

**NEW BUSINESS:**

**Restricting Access to FullCourt:** Hon. Larry Carver, Chairman of the Automation Committee gave an update from their November 17, 2005 meeting. Their committee is recommending that standard table values be established to reduce support requirements and to enhance the FullCourt Systems' ability to interface with other systems.

The Automation Committee is requesting that the Commission on Courts of Limited Jurisdiction request that the Montana Supreme Court develop a rule that the Automation Committee work in cooperation with the Office of the Court Administrator, be responsible for establishing access rules and standard system table values for the FullCourt systems for Courts of Limited Jurisdiction.

Judge Carver presented draft language for a proposed rule, setting out specific tables that should be blocked out. A decision was held about listing the individual tables and it was decided that the tables not be individually identified. The proposed language was reviewed and amended. A motion was made by Sharon Skaggs and seconded by Judge Wyckman, that the amended language be forwarded to the Montana Supreme Court by the Commission on Courts of Limited Jurisdiction requesting that a Rule be adopted. The motion passed unanimously.

**TO DO: Staff will prepare a letter to submit to the Supreme Court along with proposed language for a rule.**

**Supreme Court Opinion Duffy v. State of Montana:** Judge Harkin recommended that the Commission review this Supreme Court decision. The main issue is the clerk of the court unduly influenced Duffy by advising him he did not have a case. Judge Harkin thought this should be considered a training issue. Prof. Peggy Tonon informed the Commission that she was aware of this decision when she made her presentation to the clerks in October and she fully discussed it with them at that time.

Beth was concerned about comments on the evaluations by the clerks, whereby they seemed to be confused. Many of them attended a Prose Litigant class by Judge Snowberger and Judge Fagg and were told they could provide legal information.

**TO DO: Staff will email Judge Snowberger and Judge Fagg and ask them if they have seen and read the Duffy Opinion. Beth will report her findings at the January meeting.**

**Bulletin Board:** Judge Ortley was unable to attend the meeting so Judge Wyckman reported for him. Judge Wyckman stated the bulletin board is working well and he hopes to use information presented there for future Nuts and Bolts training.

Sharon Skaggs stated concerns from some of the clerks that their judges are not giving them authorization to use the bulletin board. Judge Seiffert hopes to get the word out to judges again, stating the intent of the bulletin board.

**Disposal of Conference Tapes:** Karen Sedlock reported the Court Administrator's Office has several years of old training tapes stored in the office. Because they are running out of room, she asked the Commission to determine how long the tapes should be kept. A motion was made by Judge Wyckman that the tapes be kept for four years. The motion was seconded by Hon. Gayle Stahl. After further discussion, Judge Wyckman amended his motion to say, "Tapes should be kept for a four year cycle". Everything over 4 years old needs to be recycled. The amended motion was seconded by Judge Knisley and passed unanimously.

Beth McLaughlin raised an issue that she recently addressed with Mr. DeVoe, one of the spring 2006 presenters. He has a copy write on his work and will only allow his presentation to be taped provided the tape is used for training purposes only and destroyed after any judge missing the school has watched the tape as part of their waiver requirement. A motion was made by Judge Wyckman and seconded by Paul Luwe that an exception to the previous motion be made this one time and the staff is allowed to destroy Mr. DeVoe's presentation, as he requires. Mr. DeVoe's presentation will be taped on a separate tape and all other classes will be held for the four-year cycle.

**Agenda for Certification Conference:** The draft agenda for the Fall 2006 certification school was reviewed.

Judge Seiffert reported Judge Carol Anderson is excited about the two-day new judge orientation and the training team is ready to go. The new judge school will be held on Saturday and Sunday prior to the certification school starting on Monday.

Judge Anderson suggested having a resource room that will be open to new judges throughout the entire conference.

**TO DO: Karen will ask the hotel to compensate the commission with a resource room and report her findings at the January meeting.**

Judge Seiffert stated that the training judges should be compensated by the Court Administrator's Office for their hotel and meal costs for the two days they training new judges. Judge Seiffert strongly encourages Commission members to make themselves available to the new judges during this time. Judge Stahl and Judge Seiffert both intend to be there.

**TO DO:** Staff will contact Judge Anderson and coordinate the training with her.

**Court Order:** Sharon Skaggs presented a Court Order by Justice of the Peace to the Commission for their review. Ms. Skaggs is concerned that Judge Harris' order only extends within his County and is not enforceable outside Cascade County. In reviewing the order, it appears this is a legal, appealable issue and not an issue the Commission should consider for training.

**Next Meeting Date:** The next Commission meeting will be Friday, January 20, 2006 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 11:25 a.m.