

MINUTES

Commission on Courts of Limited Jurisdiction
Heritage Inn – Great Falls
November 12, 2006

Chairman, the Hon. Johnny Seiffert, called the meeting to order at 3:10 p.m.

Members Present: Hon. Johnny Seiffert, Hon. Mary Jane Knisely, Hon. David Ortley, Prof. Margaret Tonon, M. Shaun Donovan, Sharon Skaggs, Paul Luwe, Hon. Doug Harkin, Hon. Gayle Stahl, and Hon. Perry Miller were in attendance.

Member Absent was: Justice Jim Nelson and Hon. Scott Wyckman.

Staff Present: Beth McLaughlin

Guest: Hon. Anna Straub, Hon. Michelle Snowberger, Hon. Kathleen Jensen, Hon. Carol Anderson and Hon. Greg Mohr were present.

PUBLIC COMMENT: Judge Michelle Snowberger addressed the Commission with concerns that she had about automation decisions. Specifically, she was concerned that the Commission's Automation Advisory Council made decisions without receiving adequate input from judges. She requested information about what the outcome was regarding a survey of judges about the overdue processing procedures. Judge Seiffert stated that the survey would not be done but that information that would allow judges to request an exception would be forthcoming. Judge Snowberger expressed her concern that communication was not adequate between the judges and the Commission. She was concerned that she had not received minutes or agendas for Commission meetings when she had requested the information. Judge Stahl indicated that staff should send the minutes and agendas to Judge Snowberger. Beth McLaughlin noted that the information was available on-line. Judge Knisely and Judge Seiffert both lauded Judge Snowberger for her efforts on behalf of her fellow judges.

TO DO: Staff will send the web link with the meeting agendas and minutes to the judges. Note: This will be done when the e-mail list is updated with the new judges' information.

MINUTES: A motion was made by Prof. Tonon and seconded by Mr. Luwe that the minutes of the October 20, 2006 meeting be adopted as written. The motion passed unanimously.

OLD BUSINESS:

On-line Training: Judge Harkin reported that he is pleased with progress and should have a final product for the commission in January.

TO DO: Judge Harkin will provide an update on his WebEx course on Evidence at the next meeting. Staff will put this on the agenda for January.

Public Defender Procedures:

Prof. Tonon discussed her conversation with Jim Taylor, the chairman of the Public Defender Commission. It is his position that if the possibility of incarceration exists, the person should have representation. Judge Knisely repeated her concerns about this creating problems for those defendants that are not going to be given jail time. The Commission opted to invite Mr. Taylor to a future meeting to discuss the item.

TO DO: Staff will contact and invite Mr. Taylor to the January or February meeting.

Filing Fees for Municipal Courts:

Mr. Luwe noted that he had not completed the research on this issue and asked for it to be placed on the next meeting agenda.

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

Allowing a Child to Drive After License is Seized

Judge Ortley reported that he reviewed the statutes and it was his opinion that the court had to take the license – they couldn't rely on the parent to hold the license. Judge Knisely noted that she used a similar practice and believed it was appropriate. Judge Ortley noted that the statute probably needed to be changed. Commission members wanted to discuss the MIP issue further at the January meeting.

TO DO: Staff will place this item on the January meeting agenda. Beth will forward an OCA legal opinion on MIP deferrals for Youth Court to Paul Luwe, Judge Ortley and Shaun Donovan.

NEW BUSINESS:

Training for Newly Appointed Judges: Judge Carol Anderson notified that the Commission that she would be resigning as the head of the MMA training committee. Judge Greg Mohr was introduced at the new training committee leader. Judge Anderson had concerns that she was not notified when new judges were appointed in a timely

matter. She also expressed concern about the problems between a training judge (assigned by MMA) and a training judge (assigned by the Commission). The Commission discussed the different options and decided that a mentor judge would be assigned when the recommendation came from the MMA training committee. Mentor judges would be charged with assisting a judge in passing the certification test. Commission members also directed staff to promptly notify Judge Mohr when they receive notice of a new judge. Commission members recognized Judge Anderson for her service to her fellow judges.

TO DO: Staff will create a one-page form to be faxed to Judge Mohr notifying him of newly appointed Judges. Staff will also request that MACO and the Leagues of Cities and Towns run a newsletter item reminding cities and counties that the OCA needed to notified when a new judge is appointed.

Training for Appointed Judges: Beth McLaughlin notified the Commission in October that David Blade from the Department of Justice would no longer send the follow-up audits to individual courts on Brady Compliance. However, she wanted the Commission to be aware that in his final report, it appears as though some of the errors were made by substitute changes. The Commission requested that judges be reminded to make sure their substitutes understand Brady Compliance.

TO DO: Staff will ask Ali Bovingdon to ask judges to share her handouts from the Brady Presentation with their substitute judges.

Contempt Issue: Judge Kathleen Jensen requested to bring an issue forward to the Commission. She noted that she was seeking advice on a matter involving contempt. She had followed the contempt procedure outlined for the judges at the Spring 2006 school. However, the attorney involved in the matter filed an appeal to the District Court and the judge ruled in his favor stating that her application of the contempt law was incorrect. Judge Jensen was concerned that if the training was flawed, it could affect other judges. Judge Harkin, who delivered the training, noted that it was correct. Commission members had extensive discussion about the matter and advised Judge Jensen that she needed to discuss the matter with the Montana Magistrates Association at its meeting during the conference. Commission members also wanted to track the matter and any future decisions in the case to ensure that training on contempt was appropriate.

Letter from Cody Rivas: Mr. Rivas sent a letter to the Commission asking for assistance with a sentencing matter in the Cascade County Justice Court. Commission members noted it was not a Commission matter and asked staff to notify him in writing.

TO DO: Staff will send a letter to Mr. Rivas notifying him that the Commission does not have authority over his concern.

New Judge Concern: Judge Seiffert notified the Commission that Leroy Not Afraid, the new Big Horn County JP, asked him whether it was a conflict to serve on the school board and an elected tribal position. Judge Harkin stated that the law was clear on the school board seat and that he should be advised to resign. The Commission discussed the tribal seat but did not make a recommendation. Judge-elect Not Afraid will be advised to ask the question during the ethics portion of the school.

Budget: Commission members reviewed the preliminary costs for the certification school. Beth pointed out that expenses would outpace revenues by about \$4,000 and this would need to be made up in the spring. The extra expenses are due to the additional day during the certification school.

Next Meeting Date: The next Commission meeting will be Friday, January 26, 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 5:45 p.m.