

MINUTES

Commission on Courts of Limited Jurisdiction
Kalispell, Montana
August 17, 2007

Acting Chairperson, the Hon. Mary Jane Knisley, called the meeting to order at 8:40 a.m.

Members Present: Hon. Mary Jane Knisley, Hon. David Ortley, Hon. Doug Harkin (via phone), Hon. Gayle Stahl, Hon. Scott Wyckman, Prof. Margaret Tonon, and Paul Luwe

Members Absent: Shaun Donovan, Supreme Court Liaison Justice Jim Nelson, Hon. Johnny Seiffert, Hon. Perry Miller and Barb Pepos.

Staff Present: Beth McLaughlin and Karen Sedlock

PUBLIC COMMENT: No public comment

MINUTES: The minutes from the June 15, 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:

On-Line Training: Judge Harkin reported that the course on Rules of Evidence is on the web-site. In June, staff forwarded the website to the Commission for their review. Judge Harkin asked that the staff email the link to the limited court judges letting them know it is on line. He would like to do a follow up by sending out a survey to the judges asking if it is a good idea and would they like to extract or expand the course.

TO DO: Staff will email the link to the limited court judges.

Update on Training Visits: No report; keep on agenda for next meeting.

Public Defender Issues: Questions submitted by the limited court judges for the Public Defender Commission and/or the Chief Public Defender were reviewed by the subcommittee consisting of Mr. Luwe, Judge Miller and Judge Knisley. The subcommittee came up with 16 questions that could be sent to the Public Defender commission and/or the Chief Public Defender to respond to at the Fall Conference.

Commission members reviewed the questions and Judge Ortley recommended that a new question be added onto question 4 or 5. What is your office procedure when a defendant does not qualify for public defender assistance? How do you notify the Court? How do you notify the Defendant? The Commission recommended that the questions be

submitted to Randi Hood and ask her to address them at the Fall School. It was decided that a joint-meeting with Jim Taylor be abandoned at this time.

TO DO: Staff will add the additional question and submit the questions to Randi Hood for her presentation at the Fall School.

Statistics: The Commission reviewed the revised Case Filing statistics for calendar year 2006. Judge Ortley stated the caveats look good, but suggested that an additional caveat be added indicating that Billings got an interface mid-year and therefore their statistics will differ from other municipalities.

A motion was made by Judge Ortley and seconded by Judge Stahl that the draft statistical summary be approved with the one addition mentioned above. The motion passed unanimously.

TO DO: Staff will add the additional caveat and prepare a final report.

Mr. Luwe is concerned about future reporting and municipal infractions. How will parking tickets and traffic offenses be categorized? This issue will be sent to the Automation Committee for review. Judge Wyckman stated the next meeting is set for Friday, September 7th in Helena beginning at 1:00 p.m. Mr. Luwe will attend that meeting to express his concerns.

TO DO: Beth McLaughlin will draft a letter informing courts they will not have to report their statistics next year, as the depository will take care of the reporting.

MIP Issue: The Commission discussed the concern again that had been raised by judges about whether MIPs were cumulative when a person received one when under the age of 18. Judge Knisley states the issue keeps expanding. She agreed to put together a draft letter to submit to the Attorney General's Office. She will ask Mr. Luwe to review it first.

TO DO: Judge Knisely will contact draft a letter for Mr. Luwe's review.

Update on Training Visits: Judge Mohr reports he visited the Brockton Court and found they are only receiving citations written on Sec. 61-8-309, MCA. Mr. Luwe asked if these citations are civil in-fractures. He will check with the MMIA to see if they are part of the liability program and report back at the next meeting. The Commission requests that Judge Mohr attend the next meeting of the COLJ.

TO DO: Staff will request that Judge Mohr attend the next COCOLJ meeting.

NEW BUSINESS

Edelen v. Bonamarte: A supreme court decision handed down June 12, 2007 was reviewed by the Commission. It was decided that Judge Wyckman and Judge Ortley will

cover this during their Nuts and Bolts section at the fall school. It was suggested that a form be developed, and placed on FullCourt.

TO DO: Judge Wyckman and Judge Ortleby review this decision at the fall school. Staff will place this decision in the training book.

AG's Letter of Advice: Chief Deputy Yellowstone County Attorney requested a letter of advice from the Attorney General's Office on whether a non-lawyer may serve as a justice in a justice's court of record? The 2005 amendments simplified the code regarding justice's courts of records. These amendments repealed Sec 3-10-317 (2003) MCA, but did not add any other qualification for a justice in a justice's court of record beyond those required of justices generally. These changes were apparently intended to clarify the absence of any requirement that a justice in a justice's court of record be an attorney. When asked in the House Judiciary committee, whether this change would require that justices of the peace in established justice's courts of record be lawyers, the sponsor of the bill responded that it did not.

TO DO: Staff will place this Letter of Advice Request on the Fall COLJ Conference book.

Conducting Court without a Prosecutor: This concern has been raised in both Havre City Court and the Brockton City Court. The Havre issue resolved itself when the Mayor finally appointed a Prosecutor. The Brockton issue is still pending and will be addressed at the next COCOLJ meeting.

TO DO: Staff will place Brockton issue on the October 2007 agenda.

Report on Judges' Certification Test: Karen Sedlock reported that she met Judge Spotted Bird in Havre on July 31st and administered his Certification Test. The test was scheduled to begin at 10:00 a.m. and Judge Spotted Bird arrived 45 minutes late. Ms. Sedlock gave him the three hour test and he failed. He sent a letter to the Commission asking the he be given an opportunity to retake the test and applied for a temporary certificate of training. Judge Harkin granted the requests.

Judge Mohr agreed to mentor Judge Spotted Bird.

The Commission stated that Judge Spotted Bird shall retake the test at 9:00 on Monday, October 1st in Butte. He shall be notified that the test time will start promptly at 9:00 am and end at 12:00 noon. The motion passed unanimously.

TO DO: Staff shall notify Judge Spotted Bird of the time and place of his final test.

Mentor Judges: There are three additional new judges. Judge Eisenbrandt, City Judge from Plains; Judge Donald Strine, JP from Thompson Falls; and Judge Riggan, City Judge from Glasgow. Judge Karen Orzech agreed to Mentor Judge Eisenbrandt and Judge Strine and Judge Carol Anderson agreed to mentor Judge Riggan. The

Commission suggested that they all take the certification test on Monday, October 1st in Butte. A motion was made by Prof. Tonon and seconded by Judge Stahl that the mentors be appointed to work with the judges and prepare them for the October test. The motion passed unanimously.

TO DO: Staff shall notify Judge Eisenbrandt, Judge Strine and Judge Rigglin that they will be scheduled to take the certification test on Monday, October 1st in Butte.

Next Meeting Date: There will be no meeting in September. The next meeting will be Monday, October 1st beginning at 12:00 noon at the Copper King Inn in Butte, Montana.

Adjournment: The meeting adjourned at approximately 10:30 a.m.