

MINUTES

Commission on Courts of Limited Jurisdiction
Helena, MT
June 19, 2009

Members Present were: Hon. Johnny Seiffert, Hon. Larry Carver, Hon. Doug Harkin (via phone), Hon. Perry Miller, Hon. Mary Jane Knisley (via phone), Hon. David Ortley (via video), David Nielsen, Shaun Donovan and Jennifer Boschee.

Members Absent: Peggy Tonon, Hon. Gayle Stahl and Supreme Court Liaison Justice Jim Nelson.

Guests: Chief Public Defender Randi Hood

Staff Present: Beth McLaughlin

Chairman Johnny Seiffert called the meeting to order at 8:35 a.m. He welcomed new member Jennifer Boschee, the new president of the clerks' association.

PUBLIC COMMENT: No public comment.

Public Defender Issues: Judge Seiffert welcomed Chief Public Defender Randi Hood to the meeting. Ms. Hood updated the Commission on budget and staffing issues facing the public defender system. Ms. Hood noted that the public defender system should not be assigned to a case where the defendant is not facing jail time or a suspended sentence that could result in jail time. After a lengthy discussion, the Commission recommended that Ms. Hood put the position in writing and the Commission would ensure this was shared with each judge.

Judge Carver asked the Commission and Ms. Hood to discuss the implementation of SB263, which requires in part, specific payments by defendants to the public defender system. After lengthy discussion, Commission members and Ms. Hood agreed the payments should be collected through FullCourt so that appropriate accounting is in place. Judge Carver volunteered to work with the OCA staff to make the necessary adjustments in Full Court.

Judge Ortley noted that having Ms. Hood at the meeting was of great benefit. He made a motion that the Commission seek approval from the Supreme Court to expand the membership of the Commission to include the Chief Public Defender. Judge Miller seconded the motion, which passed unanimously.

TO DO: Staff will contact Justice Nelson to determine how to proceed to add the Chief Public Defender to the Commission.

MINUTES: The minutes from the April 27, 2009 meeting were reviewed. Judge Carver noted that the minutes reflected that Judge Heidi Ulbricht was in attendance but she was

not. Judge Ortley made a motion to approve the minutes as amended; Judge Miller seconded the motion. It passed unanimously.

OLD BUSINESS:

Replacement for Judge Wyckman on the Automation Committee: Judge Miller noted that Judge Ulbricht declined membership on the Automation Committee. The Commission agreed to not appoint anyone at this point as the current membership is handling the workload.

Order of Protection Forms: Judge Carver updated the Commission on the progress in the new order of protection forms. He noted that there had been some disagreements with the Attorney General's Office regarding Brady indicators but that those had been resolved. The forms should be automated soon.

Judicial Standards Letter: Judge Seiffert brought the letter from the Judicial Standards Commission to the Commission's attention. Commission members agreed that no further action was necessary.

Courts Withholding Names of MIP's: Hon. Ed Williamson, JP from Dawson County sent a letter to the Commission asking if limited courts should be withholding names of MIP's from the local high schools and if the entire MIP procedure should be held in closed court? Dave Nielsen reported that in his research he believed the names were public information. Commission members agreed.

TO DO: Staff will contact Judge Williamson and notify him of the Commission's advice. Judge Ortley will include the information in the Fall Nuts and Bolts session.

Judge Glen Frame waiver of training: The Commission considered a request for a waiver of training from Judge Frame, who was unable to attend the spring conference due to illness. Judge Frame has missed part or all of the fall and spring 2008 conferences in addition to the fall 2006 conference due to illness. Commission members expressed concerns that Judge Frame was not meeting the educational requirements. The Commission agreed that Judge Seiffert would contact Judge Frame to discuss the concerns with him. Commission members agreed to discuss a formal approach, if necessary, at the August meeting.

NEW BUSINESS:

Fall 2009 Conference: The Commission reviewed the proposed agenda for the Fall conference. Judge Carver said the Fish, Wildlife and Parks Department was requesting one hour to discuss automated reporting of license suspensions. He volunteered to moderate the session. With that change, the Commission approved the agenda.

TO DO: Staff will secure speakers.

Rule 4 (Filing of Certificate): Judge Seiffert asked the Commission to consider whether statute or law required Judges to file their certification of completion with the Clerk and Recorder after each conference. Commission members agreed that the statute does not require filing each certificate with the Clerk and Recorder. Mr. Nielsen stated that the language in the Rule may create some confusion and additional hurdles for a judge. Commission members asked staff to pull the history of the rule in addition to the various statutes for discussion at the August meeting.

TO DO: Staff will review the history of the Rule and bring the information to the August meeting.

Automation Committee Update: Judge Carver reported that a number of projects were completed. He noted that the committee had two projects pending including working with the Highway Patrol on bond collections with a credit card and working with Fish, Wildlife and Parks on automated record reporting.

HB228: Judge Ortley wanted Commission members to be aware of an emerging issue in partner and family member assaults. Specifically, a defense attorney has put forward a brief arguing that the prosecution must prove that self-defense was not involved in partner family member assault cases. This is a new defense based on changes made by HB228 during the past legislation session. Judge Ortley was going to share the brief with Commission members as he believes it needs to be incorporated into the Fall training. The need for training on the issue is the fact that it arguably changes the scope of inquiry in obtaining the factual basis for a plea in an Assault or Partner/Family Member Assault case.

Next COCOLJ Meeting: The next meeting will be held on August 21, 2009 in Helena beginning at 8:30 am.

Adjournment: The meeting adjourned at approximately 11:30 p.m.