

**Board of Judicial Policy and Administration**  
**Minutes**  
**June 13, 2014**

The Board of Judicial Policy and Administration met in Cheyenne, Wyoming on June 13, 2014. In attendance in person were Chief Justice Marilyn Kite, Justice Jim Burke, Justice Michael Davis, Justice Kate Fox, Judge Keith Kautz, Joann Odendahl, Ronda Munger, Carol Thompson, Steven Dreher, Diane Bauersfeld, and Becky Craig. Those in attendance by video conference were Judge Tom Campbell, Judge John Perry, Judge Wes Roberts, and Judge Curt Haws.

**Old Business**

**Committee Reports**

**Court Security Commission –**

- Chief Justice Kite advised the Board that many of the judges wrote letters in support of the pending court security grants. She indicated that we should know by July 1<sup>st</sup> if the assessment and training grants were approved. Chief Justice Kite also advised that a reporting system is being developed whereby court security incidents can be reported, documented, and shared.

- Chief Justice Kite reviewed the Memorandum that was prepared by Karl Linde, Senior Staff Attorney, which concludes that the courts have the inherent authority to ensure proper security for their courtroom, both from a facility standpoint and with regard to manpower. She also reviewed proposed Rule 107 to the Uniform Rules for District Courts and proposed Rule 1.07 to the Uniform Rules for Circuit Courts, which provide the judges with the specific authority to ensure such security. These Rules allow the judges, in consultation with their sheriffs, the local management committees, and other interested stakeholders, to determine the appropriate security measures needed to protect their courtrooms and court personnel. In devising the security measures, the Wyoming Court Security Commission's Court Security Standards should be consulted. The Rules also state that the court may conduct appropriate proceedings and enter appropriate orders to ensure that adequate security measures are in place. Chief Justice Kite pointed out that the biggest threats in court arise from domestic relations and domestic violence cases, and that there often isn't any security in the courtroom for these types of cases. Section (b) of the Rules ensures that there will be law enforcement personnel in the courtroom for all court proceedings. Discussion was held on the Rules. Chief Justice Kite noted that Judge Donnell and Judge Castor indicated their support of the proposed Rules by email prior to the meeting since neither of them could attend. Judge Haws moved and Justice Davis seconded a motion recommending to the Supreme Court that Rule 107 to the Uniform Rules for District Courts and Rule 1.07 to the Uniform Rules for Circuit Courts be adopted. Motion passed unanimously.

- Joann Odendahl reported that there are two judicial members of the Court Security Commission whose terms expire on June 30<sup>th</sup>, and that the Judicial Conferences have recommended that Judge Tyler replace Judge Donnell, and Judge Roberts replace Judge Nau. Justice Davis moved and Judge Haws seconded a motion to accept the Conferences' recommendations to appoint Judge Tyler and Judge Roberts to the expired terms on the Court Security Commission; Judge Roberts abstained from voting. Motion carried unanimously.

- Judge Roberts reported that the Fremont County Commissioners voted recently to approve the contract to construct a new Justice Center in Riverton, subject to further price negotiations.

**CTAC** – Justice Davis presented an overview of the WyUser system and the difficulties that have been encountered, and reported that most of the major problems that have been identified are in the financial/accounting areas. He advised that the system that was being developed by LT Court Tech for the circuit courts has been stopped because of the continued difficulties of the WyUser System. The chamber and e-filing systems have also been put on hold until these difficulties can be resolved. It is anticipated that the problems with the financial components will be resolved within 30 days, and all of the other problems within 60 days.

#### **Rule 1 Initiative – Proposed Temporary Rules for DR Cases and Changes to WRCP**

Chief Justice Kite reviewed the proposed Temporary Rules for Expedited Marriage Dissolution Cases, which is a product of the efforts of the Domestic Relations Committee of the Rule 1 Initiative, along with input from Judges Deegan, Sanderson and Sharpe. She explained that these temporary rules are intended only as a pilot project in 4-5 courts where the judges have expressed an interest in testing the process. It is anticipated that the pilot project will operate for one year in order to generate sufficient data about the number of cases that are handled and the time that the cases take to complete. The litigants will need to opt into the process, and they will know at the outset that they are involved in an expedited type of proceeding. The parties and the judges will be asked to respond to a survey after completion of their case to see if they feel the process has been beneficial. Chief Justice Kite pointed out that in order to help the judges feel more comfortable in following the expedited process, a comment was included at the end of Rule 10 of the Temporary Rules that refers to Canon 2, Rule 2.2, Comment 4, of the Code of Judicial Conduct, which states, "It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard." The Board agreed that Judge Perry and Judge Haws will present these Rules to their respective conferences for review and comment; the Rules will also be sent to the Civil Rules Committee for review and comment; they will then be presented to the Wyoming Supreme Court for its consideration.

Chief Justice Kite reviewed the proposed changes to the Wyoming Rules of Civil Procedure. She explained that these amendments shorten some of the time frames and remove many of the unnecessary hearings involved in civil cases. Discussion was held and changes suggested. Judge Campbell moved and Judge Haws seconded a motion recommending to the Supreme Court that the Wyoming Rules of Civil Procedure, as amended, be adopted.

Motion passed unanimously. The Rules will be sent to the Civil Rules Committee for its input.

### **Update of Employee Handbooks**

Joann Odendahl reviewed the amendments that were made to the Employee Handbooks for at-will and for-cause employees for the Supreme Court and the circuit courts. She pointed out that a new policy has been added to the handbooks regarding social media and possible causes for termination if an employee misuses social media. Joann noted that a similar handbook was drafted for the district courts, which the three district judges on the Board will take to their conference for review.

### **Public Access Terminals in District/Circuit Courts**

Diane Bauersfeld reviewed the draft of a policy that requires the clerks of the circuit and district courts to provide a publicly accessible computer in a public space during regular business hours for the purpose of viewing court records that are not sealed or otherwise considered confidential. Discussion was held on this matter and revisions were suggested to the policy. Judge Campbell moved and Justice Burke seconded a motion to adopt the policy, as amended. Motion carried unanimously.

### **Base Jury List—Policy Prohibiting Split**

Ronda reviewed the draft of a policy that prohibits the courts from splitting base jury lists based on geographic boundaries. She noted that this policy reflects the Legislature's enactment of HB0033 that no longer allows the courts to set the procedure for the maintenance of jury lists. Justice Davis moved and Judge Haws seconded a motion to adopt this policy. Motion carried unanimously.

### **Real Time Court Reporters—Increased Salary Rule**

Joann Odendahl advised that many of the district judges are encouraging their court reporters to become real time certified, and that the court reporters who are currently real time certified are receiving a 10% increase in pay. She reported that when she was gathering information from the judges concerning pay increases in this next fiscal year, she requested that they inform her if their court reporters plan to become real time certified before next July so that she can set aside the appropriate funds. Judge Kautz and the District Court Conference will develop a policy on real time certification.

## **New Business**

### **Wyoming Lawyer Assistance Program**

Chief Justice Kite reported that Jack Speight, who has been generously donating his time, has been making great progress in promoting the Wyoming Lawyer Assistance Program. This is a confidential program whereby lawyers can seek assistance for alcohol dependency, drug addiction and mental health problems. She pointed out that the judges have a contract with the same provider to supply similar services to members of the judiciary.

### **“You Be the Judge”**

Justice Burke reported on the “You Be the Judge” program that was presented at the Laramie County Library in March over a period of four nights to an average of 60 students per night. He explained that over the four sessions, the students were put into the role of having to make tough decisions on various types of court cases. He commented that the students came away from the program understanding that the judges’ hands are often tied because they have to work within the laws that are in the Constitution or the Statutes, or within the precedents set by the U.S. Supreme Court or the Wyoming Supreme Court. Justice Burke explained that the goal of the program was to give the members of the public an insight into the difficult job of being a judge. Justice Burke advised that he has talked with the judges around the state about the importance of educating Wyoming citizens about the judiciary. He will send the materials from the program to the district and circuit court judges to enable them to use it as a format if they are interested in doing a similar program in their districts. Justice Burke suggested that an effort be made to identify the types of educational programs that are taking place around the state.

### **Signage in Clerks’ Offices**

Ronda Munger explained that the Access to Justice Commission expressed an interest in revamping the signs for the clerks’ offices that lists some of the advice and tasks that the court clerks can and cannot give or do for the public. She advised that she worked with Walter Eggers to make revisions to the existing list. The new signage was presented at the District Court Clerks’ meeting, and the clerks voted to recommend that it be adopted in its new form. Ronda reported that the AJC recommended that the Board approve the signage and send it to the district and circuit court clerks for posting in their offices. Judge Robert moved and Justice Davis seconded a motion to approve the signage. Motion passed unanimously.

### **COLAS for Retired Judges**

Justice Burke introduced Ruth Ryerson to the Board, and explained that Ruth is the Executive Director of the Wyoming Retirement System. Justice Burke addressed the issue of COLAs for retired judges, and noted that there have not been any cost of living increases for a long time, if ever, for judges that have retired under the program that went into effect in 1998. Ruth explained that the judiciary’s plan is actually in the best condition of all of the state retirement funds (103% funded), and that it is the first plan that will be able to grant a COLA. The statutes require that a fund has to be fully funded (100%), plus have a “cushion” to allow for market fluctuations, before the Legislature can award a COLA. Ruth related that the actuaries have determined that between 106-110% is an adequate cushion for a small group. She advised that if all of the actuarial assumptions are met, the fund is projected to reach 105.7% next year, 107.6% the year after, and 110% in 2017. Ruth indicated that the actuaries recommend looking at the funding before and after a COLA, and making a determination of how much volatility there can be in the market and still provide the required cushion. The Retirement System Board is currently developing a policy and the procedures for determining the percentage and setting the cushion. Discussion was held. Ruth will conduct some research for the Board and will provide the information to Joann.

### **BJPA Meetings—Availability to Public**

Discussion was held about the notice posted at the bottom of the Board's Minutes, and that it possibly raises more issues than it answers. Justice Burke moved and Justice Davis seconded a motion that the notice be excluded from future Board Minutes. Motion passed unanimously.

### **"Inns of Courts"**

Justice Burke explained that this is a national program to enhance professionalism and collegiality, and that it presents an opportunity for lawyers to interact with their local judges in a different context. He related that Nancy Freudenthal, the current president of the Cheyenne "Inns of Courts", has expressed interest in getting the program started in other communities around the state. Chief Justice Kite suggested that this topic be put on the September Judicial Council Meeting agenda.

### **CJE Credit—Service on Bar Association Committees**

Ronda Munger explained that the Continuing Legal Education Rules for attorneys were recently changed to allow attorneys to receive 5 hours of CLE credit per calendar year for serving on bar association committees. She advised that a judge recently asked if members of the judiciary are entitled to receive Continuing Judicial Education credit for serving on committees. After lengthy discussion it was decided that CJE credit should only apply to service on select committees. Justice Burke volunteered to look into this matter further.

### **Judicial Council Planning**

Justice Burke reviewed the September Judicial Council Meeting schedule. He pointed out that there will be program topics that appeal to judges from all levels of the courts in attendance. He noted that the BJPA meeting will be held on September 8<sup>th</sup>, and the Judicial Council Meeting will be on September 9<sup>th</sup>.

### **Juvenile Justice Conference Update**

Justice Burke reported that he, Judge Sharpe, Joann Odendahl, Ronda Munger, Eydie Trautwein, and Deb Dugan-Doty recently attended the Juvenile Justice Summit for Western States that was held in Seattle, Washington. He advised that as a team, they put together a great set of goals. Justice Burke related that it is felt that many of the juvenile cases are lingering far too long, and that methods need to be developed to move the cases through the system in the time periods that are set by statute. Eydie Trautwein and Deb Dugan-Doty will be meeting with each of the district judges. There will be an effort made to improve and increase the communication between the judges and the Department of Family Services.

## **Miscellaneous**

### **Judicial Learning Center**

Chief Justice Kite reported on the Judicial Learning Center that is being constructed in the State Law Library at the Wyoming Supreme Court. She explained that the Legislature approved the one-time request for \$280,000, and that this amount is to be matched by private monies. The Center is an interactive museum type of facility where students and adults can learn, in a very short time frame, about the rule of law, what it means, and how

it relates to their lives. Chief Justice Kite commented that the Learning Center will also be a great way of presenting the history of the Wyoming Judiciary and the Wyoming Supreme Court.

### **Rules of Civil Procedure for Circuit Courts**

Chief Justice Kite reported that Judge Castor identified the data fields that could be pulled from the existing case management system to ascertain the impact that the new Rules of Civil Procedure for Circuit Courts have had on the time to disposition in civil cases. She advised that the data shows that there has been a dramatic improvement in this area, but it also shows that there is a wide disparity among the courts. Judge Haws commented that the results were very enlightening, and that one of the upshots of the research was that a best practices checklist was developed and circulated to the circuit judges in an effort to create uniformity across the state.

### **iCivics Ceremony/Ice Cream Social**

Ronda Munger spoke about the competition that was organized during the iCivics Conference in February. The object of the competition was to see which of the participating schools, during the month of March, could have the most iCivics interactive sessions completed by its students on the iCivics website ([icivics.org/games](http://icivics.org/games)). The Rock Springs High School won by a landslide, having engaged in 1,000 sessions. Ronda reported that the school ceremony involved a mock sentencing in which Judge Lavery served as the judge on an actual DUI vehicular homicide case. Ronda commented that it was a very dramatic experience that made a big impact on the students. She also pointed out that this was a great opportunity for the judiciary to interact with 300 students and school personnel.

### **Website Update**

Chief Justice Kite reported that progress is being made on development of the new Supreme Court website that will be much more informative and user-friendly.

Chief Justice Kite noted that this was her last meeting as a member of the BJPA. She adjourned by welcoming Justice Fox and Judge Kautz to the Board, and thanking the current members for their dedicated service. She commented that the Board is a critical part of the operation of the judicial branch, and she encouraged the members to stay committed to finding the tools and methods to help the judges do their jobs more efficiently, thereby providing better service to the public.

Meeting was adjourned.

### Schedule of Future Meetings:

September 8, 2014 @ 2:30 p.m. (State Bar/Judicial Council Meeting) – new date

December 3, 2014 (videoconference)

Approved by email on August 28, 2014