

Minutes
September 11 and 13, 2000
Board of Judicial Policy and Administration

The September 11 and 13, 2000 meeting of the Board of Judicial Policy and Administration was held in Gillette, Wyoming at the Clarion Hotel and Complex. Members present were: Chief Justice Larry Lehman, Justice Richard Thomas, Justice William Hill, Judge Gary Hartman, Judge Jeffrey Donnell, Judge Bart Voigt, Judge Rob Denhardt. Absent: Judge Wade Waldrip, Judge Frank Zebre and Judge Scott Cole. Holly Hansen also attended the meeting on the 11th and 13th, Jim Bivona and Ronda Munger attended the meeting on the 13th.

The minutes from the June 23, 2000 meeting were approved.

To facilitate the schedule due to the Judicial Council meeting and the State Bar Convention, the Board met in a dinner meeting on September 11th. Items of New Business were discussed at that portion of the meeting.

New Business

1. Drug Courts. Chief Justice Lehman and Judge Denhardt reported on the meeting they attended September 7th in Sheridan with the Substance and Abuse Subcommittee of the Joint Labor, Health and Social Services Committee. At that Subcommittee meeting concern was expressed about the Supreme Court taking over the drug court program. The Board clarified that it had not been the Board or Supreme Court's intention to take over the drug court program in the state. The Board approved the following action: Chief Justice Lehman will convey to Attorney General Gay Woodhouse and Tom Pagel that the Board does not want to get involved in budgeting or managing the money for the drug courts. Further, the Board's position with respect to the appropriation of funds for the drug courts is that the money needs to go elsewhere, possibly the Attorney General's Office or the Department of Corrections.
2. Board Conference Calls and Committee. Holly Hansen asked for the Board's feedback on using conference calls to conduct Board business. Members indicated that they were in favor of conference calls, provided that the calls were used for selected and limited topics. The Board also discussed the need to meet for a longer period of time. It was suggested that the Board's meetings should be two-day meetings, so that the Board would have a full 16 hours to work. The Board agreed to have its next quarterly meeting in Casper, but a meeting date was not determined. Holly Hansen will contact the members to find a suitable time. Holly Hansen also indicated that when she sends a draft rule or order for comment, she would ask the Board to respond in the affirmative within a certain period of time. The current procedure had been to send out the draft and indicate it would be finalized if no objection were voiced. The problem with that approach has been that there was no documentation for the record. The Board

agreed that a majority of the members would need to take a positive action before any rule or order is finalized

3. **General Assignments.** Judge Hartman led the discussion on this topic. He indicated that some of the district court judges were in favor of having a pool of retirees who meet the criteria and could be used. Justice Hill asked if we knew who is eligible and willing to serve. Holly Hansen indicated that she would gather information on the retirees. Justice Thomas expressed his thoughts about a sabbatical for the trial court judges. Chief Justice Lehman said he thought this idea has merit and that it should be on a future agenda.
4. **Amendment to the Court Consolidation Bill.** Holly Hansen explained a draft amendment to the court consolidation bill, which would clarify that only circuit court counties will get to vote in the retention election at the next general election. The proposed amendment clarifies that a circuit court judge's name will not appear on the ballot in justice of the peace counties within the geographic boundaries of the circuit.
5. **UISFA Exemption from the Court Automation Fee.** Following a brief discussion, Judge Voigt moved and Judge Donnell seconded a motion clarifying that the \$10.00 automation fee will not be charged in UISFA cases. Justice Thomas offered an amendment to the motion, clarifying that the Board is directing the Supreme Court to enter the order, rather than recommending the order. The makers of the first and second accepted the amendment and the motion passed as amended.
6. **48-Hour Rule.** Judge Denhardt led the discussion. He reported that the criminal rules committee would bring a recommendation to the Board at a later date.
7. **VAWA Training Grant.** Judge Denhardt reported that over the years, there has been a lack of training on domestic violence issues for judges in the state. He said that last winter he and Steve Gilmore (the Chief of Police in Wheatland) encouraged Holly Hansen to submit an application to the Attorney General's Office for VAWA money in order to sponsor a judges' training program. An application was submitted and later approved by the VAWA Advisory Board. Holly Hansen explained that she and Judge Denhardt are the judicial branch representatives on the Governor's Domestic Violence Elimination Council. She said that the Supreme Court had approved the application for the VAWA grant and that this happened prior to the Board's existence. Judge Denhardt and Holly Hansen requested the Board's support for the project. They explained that the plan is to schedule a two-day training session at the Law Enforcement Academy. The VAWA grant will cover the cost of nationally recognized presenters and travel for the judges. The Board indicated its support for the project and recommended that judges from all levels be invited and encouraged to attend. Holly Hansen stated that she would contact Dan Zivkovich, who has been hired as

the new director of the Law Enforcement Academy about scheduling the training. She said the plan is to hold the training in the spring of 2001.

8. 2001-2002 Supplemental Budget Requests. Holly Hansen told the Board that a supplemental budget request needed to be submitted to add funding to the Supreme Court's budget for the Hot Springs Circuit Court
9. Transcripts. There was a brief discussion about transcripts in juvenile and involuntary commitment cases. It was determined that statute currently allows electronic recording of proceedings in both instances.
10. Judicial Branch Travel Regulations. Following a general discussion of the executive branch's travel regulations, a motion was made by Judge Donnell and seconded by Judge Voigt to adopt the same per diem rate as the legislator's per diem. The motion carried. In addition, the Board instructed Holly Hansen to determine the amount of mileage paid to legislators and report back to the Board.

Old Business

1. Five State Judicial Conference. Chief Justice Lehman reported that he attended the Five State Judicial Conference in Bismarck, North Dakota this year and that Wyoming's attendance was low. The Chief Justice was the only justice who attended; there were no district court judges in attendance and only few circuit court judges. Holly Hansen advised the Board that Montana is scheduled to host the Five State in 2001 and that it will be Wyoming's turn in 2002. She told the Board that hosting the conference requires an extensive amount of time and energy from the administration staff. She said that in addition to the continuing judicial education component, the conference has traditionally included a social component for spouses, guests and children. She said that making those arrangements is very time consuming. After further discussion, Judge Donnell moved and Judge Voigt seconded a motion to withdraw from the Five State Judicial Conference. Motion carried.

The dinner meeting adjourned and the Board reconvened at 1:30PM, September 13, 2000 at the Campex. Guests in attendance were Judge Keith Kautz, Judge John Brackley, Catherine McPherson, President of the Wyoming State Bar, Tim Day, President-Elect of the Wyoming State Bar, Pam Munter and Jeffery Ferguson from Westlaw.

Old Business

2. Personnel Rules. Chief Justice Lehman indicated that the personnel rules would be revised and sent out for comment. Discussion of the personnel rules would be on the Board's December agenda.

3. Quality of Justice. Chief Justice Lehman indicated that a written report from Quality of Justice Committee had been included in the information mailed to the Board. Due to the lateness of the day, he suggested that the Board table discussion of this for a future meeting.

Representatives of the State Bar

Catherine McPherson told the Board that she and Tim Day had agreed to coordinate their two presidencies and to overlap the goals. She said that the State Bar has a three-year strategic plan that includes six goals and strategies to achieve those goals. She said that two of the goals involve the judiciary. The first goal is to approach the judiciary to see if there is any interest in having an ad hoc bar member serve on the Board and having an Board member serve as an ad hoc member of the bar commissioners. This would facilitate conversation regarding issues of common interest, plus give the judiciary support needed from the state bar. The second goal is to improve the professionalism of the legal profession. The State Bar wants the judiciary to know that the state bar supports and encourages the courts to enforce rules of decorum. The bar believes this is important for their profession. She indicated they were also concerned about the continued practice by disbarred attorneys. The bar representatives also discussed the issued of multi-disciplinary practices.

Judge Denhardt commented that the Board had discussed the possibility of meeting 16 hours per quarter, which would give time for representatives from the bar to meet with the Board. There was also a discussion about having the Judicial Council meet at the same time and the same place as the annual state bar convention, the thought being that it might help increase judicial attendance. Justice Thomas offered the suggestion of having joint meetings. Chief Justice Lehman suggested having a panel discussion for members of the bar and judges at the next year's state bar convention.

In terms of opening communication channels between the state bar and the judiciary, Judge Hartman said that it might be a good idea to have an ex-officio member of the bar on the Board. He also suggested that the Board needs to review decisions, which will impact the state bar and circulate to the bar for comment before Board action is taken.

WestLaw Representatives

Pam Munter and Jeffery Ferguson from Westlaw made a presentation to the Board. Ms. Munter said that Westlaw wanted to get an understanding of what the judiciary might be interested in considering. She asked if the Board was interested in having them put together a proposal for a state plan that would cover the Supreme Court and the trial courts. The Westlaw representatives explained that the Supreme Court and the district courts are on two different pay plans. The Supreme Court is on a pay as you go and charged at the common government rate; with the exception that access to Wyoming cases is free.

Judge Donnell asked the Westlaw representatives to make an assessment to see where the Westlaw research dollars are being spent. He indicated the district courts would like to know, based on past usage, where the majority of the time is being utilized. During the

meeting Judge Brackley commented that the district court judges did not realize that when they signed up for the flat fee, that they were actually going to be compared to the standard rate. He indicated that they were not advised that the rates could double on the basis of usage. Justice Thomas asked if it would be possible to place the CD ROM on a file server. The Westlaw representatives indicated that Westlaw is not promoting this as an alternative and it really is not an economical approach. The Board concurred that at this time, the Supreme Court will continue its present arrangement and Westlaw needs to get a price to the district judges for the remainder of the 2001-2002 biennium.

Universal Citation Presentation

Ronda Munger then made a presentation on the universal citation format and the State of Oklahoma's offer to help Wyoming develop its own database. She explained that the copyright protection for Wyoming judicial decisions belongs to West. Any vendor, who wants to create a legal database, must pay a licensing fee to West as the owner of the official citation. The increased use of the Internet has shown the need for a pagination system that can be used both in books and electronically. Under the present citation, it is difficult to figure out the exact citation on-line. As a result, two task forces were formed, one by the ABA and the other by the American Association of Law Librarians. Both recommend the adoption of the universal citation format, which follows a prescribed format of Year-State Postal Code-Assigned case number-Paragraph. This citation format works directly for books and electronically. Furthermore, there is an official citation from the day the case is issued. The state of Oklahoma has developed a conversion system, which it has offered to Wyoming free of charge. They have chosen Wyoming, because of our small size.

Judge Donnell made a motion that the Board mandates the Supreme Court to adopt the universal citation and declare the Wyoming database as the official citation, effective January 1, 2001, with the provision that adequate notice is given to the State Bar and the judges in the state. Furthermore, we will continue to provide the cases to West Law, Lexis and Shepard's in addition to Oklahoma. Judge Hartman seconded the motion. Motion carried.

Jury Reform

Jeff Donnell presented the Jury Reform Report to the Board. He indicated that most of the recommendations are discretionary. Three recommendations are mandatory: note taking, copies of jury instructions, and questions for the witnesses. Jeff Donnell reported that the district court judges voted to recommend adoption of the recommendations. He said that some judges do not like the questions for the witnesses, but that the district court judges were willing to recommend approval. Judge Denhardt reported that the circuit court judges heard a report on the recommendations, but did not take a formal vote. There was a discussion about sending the recommendations to the rules committees. Justice Thomas stated that when a committee spends two years working on a project, the Board needs to take action. Justice Thomas moved that rules should be drafted issuing the changes on a trial basis effective January 1, 2001.

Judge Donnell and Jim Bivona, the Chief Information Officer, reported on the Technology Task Force and the Johnson/Sheridan Pilot Project. Judge Donnell commented that the Task Force has already invested considerable effort in the Johnson/Sheridan pilot project. Judge Voigt moved and Judge Donnell seconded a motion to ratify the pilot project as initiated by the Technology Task Force.

Judge Denhardt reported on the circuit judges' division meeting. He said the circuit court judges were opposed to the Board's decision to withdraw from the Five State Judicial Conference. In addition, the circuit court judges discussed the need for additional judges in selected locations.

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The meeting was adjourned at 4:00PM.