



Minutes of May 15, 2006 ISC Meeting

Committee members in attendance: Hugh Hayes, Chief Judge  
Robert Jacobs, Public Defender  
Sheldon Finman, Esquire  
Peter Ringsmuth, Esquire

Others in attendance: Richard Callanan  
Suzanne Ederr  
Capt. Thomas W. Ellegood  
Eric Fishbeck  
Brenda Giessman  
Roxanne Hino  
Ryan Kuhl  
Ian Mann  
Jon Martina  
Joseph Rinella

Phone attendance: JAC Staff - Buddy Aspy  
Sharon Bruley  
Beth Sullivan

1. Minutes of the meeting held February 13, 2006.  
- **Action:** Motion to approve the minutes passed.
  
2. Public Comment.
  - Ian Mann re-raised his earlier concerns that the registry's case-category organization allows attorneys to "cherry pick." This is accomplished when attorneys select only the preferable categories (e.g. 3<sup>rd</sup> and 2<sup>nd</sup> degree felonies). Mr. Mann noted that only ten attorneys have elected to be appointed to 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree felonies, while 25 attorneys have selected 2<sup>nd</sup> and 3<sup>rd</sup> degree felonies alone. Mr. Mann proffered a remedy that would raise the qualifications for 2<sup>nd</sup> and 3<sup>rd</sup> degree felonies, or, alternatively, abolish the category system altogether.
  - Mr. Finman stated that he shared Mr. Mann's concerns. Mr. Ringsmuth endorsed this point of view. Mr. Jacobs suggested that ISC staff should conduct a study to determine the true nature of this problem. Mr. Callanan suggested that the defense bar should contribute to a solution. Mr. Mann indicated that there was not uniformity of opinion among attorneys serving

on the registry. Ms. Ederr indicated that the ISC's revised application will capture additional information regarding the applicants' courtroom experience.

- Mr. Finman stated that no action should be taken until the ISC staff prepares a report that will allow the committee members to make a decision based on more than simply the casual awareness of the problem.
3. Capt. Thomas Ellegood addressed the issue of the Lee County Sheriff's transportation policy with regard to indigent defendants.
- Capt. Ellegood attended at the request of Sheriff Mike Scott who had received a letter from the ISC Chairman, dated April 27<sup>th</sup>, that invited him to address the committee's concerns on this topic.
  - Capt. Ellegood indicated that the Sheriff's counsel reviewed the relevant portions of F.S. §57.081, and it was determined that the Sheriff's invoices, mailed to court-appointed attorneys in order to recover the costs of transporting indigent defendants could not be rightfully collected. Capt. Ellegood declared that no such bills have been consciously dispatched since February 2006.
  - Capt. Ellegood, responding to a question, stated that any effort that court-appointed attorneys could take to ensure that the indigent status of their clients is brought to the attention of the Sheriff's office, would support the Sheriff achieve his revised billing policy.
4. Report as to the issue of the JAC's interpretation of the adopted rates for court-appointed attorneys in Juvenile Delinquency cases.
- ISC staff recommended clarifying the fee schedule to remove the ambiguity that led to varying interpretations between the ISC and court-appointed attorneys regarding the correct billing rate.
  - The committee members approved of the ISC staff's recommendation, which the JAC confirmed would resolve the matter.
  - In response to a question, the JAC informed the committee members that all hourly portions of any bill submitted to the JAC must receive a judicial determination with regard to reasonableness. The committee members were unaware that each hourly bill must receive a court order.
  - Mr. Finman recommended that the Fee Schedule inform its readers that all bills in excess of the flat rate will require a court order.
5. Report as to miscellaneous expense policy for court-appointed attorneys.
- JAC indicated that the matter of attorney travel expenses should be clear on two matters: [1] whether expenses for mileage are permitted, [2] whether hourly billings for attorney-travel time may be taken.
  - Mr. Callanan expressed concern that claims for local travel (intra-circuit) could create significant administrative problems. He recommended that clear and measured standards be set.

- Mr. Finman suggested that Florida state employees operate under a proven standard. Mr. Jacobs suggested only out-of-circuit travel should be under consideration. Judge Hayes agreed that intra-circuit travel should not be reimbursable, that the State Attorney / Public Defender reimbursement schedule would serve as a good model, and that extraordinary expenses could be sought under a court order.
  - The committee members agreed that this outline should provide the ISC staff enough guidance to draft a prospective solution to be presented at the next meeting.
6. Beth Sullivan of the JAC presented two statutory changes that will affect the ISC:
- **Beginning July 1, 2006:** the JAC will be statutorily prohibited from compensating registry attorneys who are not contracted with the JAC.
  - Additionally, the ISC's adopted rates will be frozen on July 1, 2006. The ISC will retain the power to raise its rates, but the JAC will be disallowed to honor any increases that occur after June 30, 2006.
  - Judge Hayes recommended that the ISC staff thoroughly review the rate schedule to ensure that there are no glaring omissions.
  - The committee members agreed that, assuming the ISC staff deemed it necessary, another meeting should be conducted before June 1, 2006, to address this issue.
7. Report as to absence of adopted rates for video depositions (agenda item #6).
- Mr. Jon Martina addressed the committee regarding video deposition services that he has provided to ISC court-appointed attorneys. Unfortunately, since the category of video depositions is not accounted for on the rate schedule, the JAC has been unable to authorize payments.
  - Mr. Martina requested the following rates be added to the adopted rate schedule: \$150 for the first hour, \$25 for each additional half-hour, an additional \$10 per hour for each hour after 5 p.m., and a \$75 fee for cancellations.
- **Action:** Motion passed approving the requested rate increase made retroactive to July 1, 2005.
8. Review of additional applications for ISC Registry:
- Garber, Carolyn C.
  - Rinella, Joseph J.
  - Kuhl, Ryan (walk-in application)
  
  - Bass, Gary H.  
*(addition to Hendry and Glades Counties - Cat. 3, 4, 5, 7 and 8)*
  - Brizel, Jay M.  
*(addition to Charlotte County - Cat. 3, 4, and 5)*

- Burr, Robert O.  
*(removal from Hendry County)*
- Lombardo, Jr., Joseph  
*(removal from Charlotte County and Cat. 1 and 2; addition to Lee County retaining Cat. 3 and 4)*
- Oosterbaan, Adam J.  
*(removal from Lee County)*
- Powell, Michael G.  
*(removal from Cat. 5 in Lee and Charlotte)*

- **Action:** After a report was provided by the Court Administration staff, the Committee members engaged in a discussion, and made a motion that approved all applications, with the following exceptions:

[a] Mr. Joseph J. Rinella submitted his application with the declaration that he does not presently meet the CLE or malpractice insurance conditions.

- **Action:** The committee agreed to conditionally approve Mr. Rinella's application subject to meeting these preconditions.

[a] Mr. Ryan Kuhl submitted his application with the caveat that he does not presently meet the malpractice insurance condition.

- **Action:** The committee agreed to conditionally approve Mr. Kuhl's application subject to meeting the malpractice precondition.

**Staff Follow-up:**

- a. Update the registry, and provide updated registry to JAC, Chief Justice, Clerks, Court Admin points-of-contact; post registry on the ISC web page.
- b. Determine whether an ISC meeting to adjust the fee schedule prior to the statutory freeze is necessary; if so, prepare for a meeting on May 29, 2006.
- c. Prepare a report examining the qualifications of the attorneys on the registry and the level of service currently being provided.
- d. Draft the approved changes to the rate schedule:
  - Remove ambiguity from the flat and hourly rates, and
  - Add a category for video depositions.
- e. Draft a proposed miscellaneous expense policy based on the outline provided by the committee members.
- f. Prepare for a tentative meeting to be held on August 14, 2006.