

# CHEYENNE HERALD

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## Police "escort" service

Why in the world are Cheyenne police officers, including Lt. Rob Korber, escorting a serial criminal around town like he's a celebrity?

Do they make every guy who repeatedly abuses a woman in town a paid informant? Is it really a good justice system that allows these guys multiple beatings of the same woman, without prison time, because they are often turned "snitch?"

In a case brought to my attention today, a guy being held in jail on a 60 day sentence (to run concurrently with a district court sentence, according to circuit court files) was chauffeured to the very house where he often abused the woman, his wife. They, a cop and the abuser, waited for her to go to work (she works two jobs, he none) before allowing the guy, who is incarcerated, to enter the house. Inside the house was the child of the woman. Not his, hers. The inmate was allowed freedom to roam the house for an hour, during which he "visited" with the teenage girl without the mother's knowledge or consent, and took personal possessions of both his and the woman.

Other than the fact that the guy is a paid informant and is given special privileges for that role, why would law enforcement allow a guy into the house of his victim, even knowing she was not home because they watched her leave before allowing the abuser inside? And, without the woman there to protect her interests, both property and her daughter, how could any police officer know that what the guy was removing from the house was his? And why would they allow him to destroy a three-pose picture by cutting one of three shots out so he could take it with him?

If the number of women who contact me regarding domestic violence are indicative of Cheyenne as a whole, we have an epidemic in our town. A very, very serious epidemic. Forget any possible flu pandemic. We have a spread of domestic violence, unchecked, unabated and seemingly accepted by our system - police, DA and the Courts - that rivals any in the large, violent cities in the nation.

What can a guy be delivering to the police and DA's office to justify such kid glove treatment? Do snitches really produce results law enforcement is incapable of producing without serial criminals being paid to inform? That would be tragic.

Imagine. You know your abuser is in jail and you feel safe in your house. The next thing you know, a police car pulls up in front of your house, ferrying your abuser back to the scene of his crimes. It's happening, folks. Safe, my ascot.

## The Supreme Court said what?

In the next issue, more specifics from the opinion

In what, in my opinion, was a pile of tortured logic, the Wyoming Supreme Court ruled that, while a city agency met in secret in violation of State statutes and did everything short of a public vote on the appeal at hand, their action should not be voided.

Say what?

I almost always agree with the Supreme Court and almost always feel they do a great job in articulating their decision and the legal bases for the opinion issued.

Not on this one. This ruling creates a new law and a very dangerous new law at that. The justices clearly did not agree on the matter and took a circuitous route to reach the ruling it did.

Unfortunately, the issue being appealed was not of that much import. It was meaningless by itself. But, the ruling will now allow all public "agencies" to make decisions in private then vote in public. Until the Legislature takes away the Court's ability to make law on this issue.

Justice James Burke, as he usually did on the District Court, got it right. And, in his dissent, he made more sense of the uncomplicated violation than the majority opinion which was written by Chief Justice Barton Voigt. And, Burke's former colleague at the District Court level, Ed Grant, as he often did, got it wrong even though he was bailed out somewhat by the majority decision of the High Court.

Neither attorney who presented the oral arguments back in October did a very good job. Neither seemed well prepared nor were convincing in their arguments. And, even though this was a City of Cheyenne matter, the litigation was handled by WARM, which uses the law firm of Davis & Cannon. For some reason, media including the Wyoming Press Association uses a private attorney who is just not very persuasive. He may know the subject but he doesn't do a good job of presenting it at the Supreme Court level.

In **2010 WY 2 (S-09-0103), CHEYENNE NEWSPAPERS, INC. v. BUILDING CODE BOARD OF APPEALS of the CITY OF CHEYENNE**, the decision is worded this way: **"VOIGT, C.J. delivers the opinion of the Court; KITE, J., files a specially concurring opinion in which HILL, J., joins; BURKE, J. files a concurring in part and dissenting in part opinion."**

Say what?

The words of four different justices is just as convoluted as that explanation of "who thought what" intro to the opinion.

Seriously, folks, as I read and tried to understand this opinion, I thought about the Abbott and Costello "Who's on first?" bit - it's that confusing and conflicting.

And, while the WTE claimed victory, they won nothing. In fact, this case set back the issue of open meetings a couple decades. The City won this case. They and other governmental agencies and bodies like county commissioners were given permission to hold discussions in private, reach a "collective decision" in private, then vote in public and no violation of state statutes has occurred.

That is in direct contradiction to the intent of the Wyoming Legislature. There is nowhere in statutes where it says public bodies can conduct business like that. And, God forbid it ever comes to that.

In the various writings, each justice kind of gets at least part of the issue right. Some, however, reach the wrong conclusion. Even though the right decision couldn't change the violation at this point, it still should have been the one reached.

The City tried the argument that the Board of Appeals (Board) was a quasi-governmental agency and not bound by state statutes on open meetings. They also argued that, if not such an agency, they were not a governing body and not subject to the open meetings requirements. The justices, one and all, agreed both of those arguments were bogus.

Then, the City argued that even if neither of those stands were upheld, the Board had taken no "action" behind closed doors, hence, again they were not bound by state statute because they hadn't broken any laws. This after they had argued that if they had broken any laws, it was okay because they were either a quasi-governmental body or were not a governing body - take your pick.

The City's explanations for why they conducted public business in private was reminiscent of a kid's attorney arguing in court that his client didn't kill his parents but if he did, the Court should show him mercy because he is an orphan.

(Refer to the Cheyenne Herald article available on the website address shown below - in the October 27, 2009 issue, page 3 - for the story about how the oral arguments went.)

After some obligatory comments about the newspaper presenting an incomplete appeal, the opinion went on once again to repeat their mantra that their job is "to determine the legislature's intent."

Had the justices done only that, the ruling would have been brief and in favor of the newspaper's appeal and the Board's action would have been void. It's as simple as that. To decide otherwise, the Court is of the opinion that the Legislature intended to allow public business be done in private. In secrecy. It didn't.

The ruling goes on to describe the Court's role in interpreting "ambiguous" statutes and quotes W.S. § 16-4-403(a) **"All meetings of the governing body of an agency are public meetings, open to the public at all times, except as otherwise provided. No action of a governing body of an agency shall be taken except during a public meeting following notice of the meeting in accordance with this act. Action taken at a meeting not in conformity with this act is null and void and not merely voidable."**

Every part of this section applied to the Appeals Board that met in secret. There is no ambiguity. They deliberately did not go into executive session because the law is specific in describing what subjects can be discussed in executive session.

In W.S. § 16-4-402(a)(i), the word "action" is defined. **"Action means ... a collective commitment or promise by a governing body to make a positive or negative decision, or an actual vote ..."**

This Board took action. That is proven by the fact that after hours in private discussion (with no dissent based on the public vote), the Board came back into a public setting and "explained" what had transpired in their "deliberative" process and quickly accepted the 19 page document prepared as a result of the meeting conducted in private, away from the prying eyes of the public or media. Had the Board not taken "action" behind closed doors, the document could not have been prepared and ready to present immediately at the public meeting later.

Justice Kite wrote, "I agree that the Board is a governing body covered by the Act and its meeting in executive session was illegal," but then retreats because no transcript had been prepared so she doesn't know what happened in secrecy. Come on, Justice Kite. You're the strong one. Don't behave like a man. Woman up.

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