

Board of Judicial Policy and Administration

Supreme Court Building, Room 237

Cheyenne, Wyoming

March 16, 2020

9:00 A.M. – NOON

Video Conference

MINUTES

BJPA Members Present: Chief Justice Michael Davis (Chair), Justice Kate Fox,* Justice Lynne Boomgaarden,* Judge Bob Castor,* Judge John Fenn,* Judge Catherine Rogers,* Judge Tom Rumpke,* Judge Wes Roberts,* Judge Curt Haws*

Others Present: Judge Timothy Day,* Judge Tom Campbell,* Judge Brian Christensen,* Diane Sanchez, Laramie County Clerk of District Court, Jasmine Peters, Staff Attorney for Judge Sharpe, Patty Bennett, Clerk of the Supreme Court, Julie Goyen, Chief Information Officer, Claire Smith, Chief Fiscal Officer, Elisa Butler, General Counsel, Heather Kenworthy, IT Applications Manager, Nate Goddard, IT Infrastructure & Operations Manager, Lisa Finkey, Children's Justice Project Coordinator, Cierra Hipszky, Business Manager and Lily Sharpe, State Court Administrator

**Appeared remotely via phone or video conference*

Agenda Items	
Roll Call	All members were present.
Welcome	Chief Justice Davis welcomed members and other attendees.
COVID-19 Update	<p>1. Update – Chief Justice Davis and Lily Sharpe</p> <p>A couple weeks ago we started working on a pandemic plan to address the COVID-19 outbreak. That has involved consultation with the Wyoming Department of Health, State epidemiologist and infectious disease specialist, the office of Administration and Information, and the Governor's office. According to the pandemic plan and the current state of the outbreak, we are in standby for activating the plan. Activation would be triggered after consultation with the District and Circuit Court Judge Conference, and the Supreme Court.</p> <p>The decision was made to convert oral arguments this month to brief only conference. Although the Law Library is still open, the Judicial Learning Center has been closed.</p> <p>Judge Sharpe's staff attorney, Jasmine Peters researched what other courts in other states are doing, along with possible issues that the district and circuit court</p>

	<p>judges might consider. She gave an overview of her research to the Board.</p> <p>Chief Justice Davis thanked Jasmine and noted her notes will be sent out after the meeting (Appendix 1). It was additionally noted the Court can change any rule that does not involve violating the Constitution or statutes. Judge Fenn suggested that the Supreme Court issue an order making more detailed guidance for the lower courts, and the Board appeared to be in general agreement. Chief Justice Davis encouraged the conferences to quickly meet and provide feedback and any areas of concern to him by tomorrow afternoon. We will take that input and act as fast as possible.</p>
Judicial Vacancies	<p>1. First Judicial District: Denise Nau</p> <p>A. Judge Nau Retiring July 2, 2020</p> <p>Chief Justice Davis indicated the Judicial Nominating Commission will be conducting interviews in Cheyenne on Friday. Considering the acceleration of the virus outbreak, there is a possibility those interviews will be conducted remotely.</p> <p>Chief Justice Davis further noted it is helpful to the Judicial Nominating Commission to have advanced notice of planned retirement. He encouraged any judge planning to retire to give him a phone call before giving official notice so he can get in touch with the Commission to make sure everyone can be there for interviews within the 60-day timeframe. The identity of the retiring judge will not be disclosed to the Commission until the Chief receives official notice of retirement.</p>
BJPA Elections	<p>1. Terms Expiring on June 30, 2020</p> <p>A. Justice Fox</p> <p>B. Judge Fenn</p> <p>C. Judge Roberts</p> <p>This is a reminder there are terms expiring at the end of June.</p> <p>2. Elections Held in May</p> <p>A. Rule 5 of the Rules and Procedures Governing the Board of Judicial Policy and Administration (Appendix 2)</p> <p>Rule 5 of the BJPA indicate elections are to be held in May by your conferences. Please send those names to Lily Sharpe after elections are held.</p>
Children's Justice Project	<p>1. Update – Lisa Finkey</p> <p>Lisa Finkey is the new Children's Justice Project (CJP) Coordinator. She extended an invitation to the District Court Judges' Conference to attend the National Association Conference in 2021 in Denver. CJP will reimburse you for attending.</p> <p>The training in Buffalo next week will be rescheduled.</p>

	The next community training will be in Laramie in April.
Legislative Update	<p>1. Session Overview – Lily Sharpe</p> <p>A. Bill Summaries (Appendix 3)</p> <p>B. Interim Topics</p> <p>The bill summaries are provided for informational purposes.</p> <p>Interim topics have been submitted to the Joint Judiciary Committee and are being considered. Those topics will need to go to the Management Council for review as well.</p> <p>2. Budget Update – Claire Smith and Lily Sharpe</p> <p>A. Elimination of Courtroom Technology Funding</p> <p>The JAC did not want to fund any IT projects beyond our critical needs and wanted all costs to be covered by JSA funds. In order to do this, HB193 was created increasing the JSA fee to \$40.</p> <p>They made two exceptions and gave us \$2M in general funds for implementing e-filing and \$1.7M for an update to the appellate case management system.</p> <p>Despite the huge effort our staff and a number of judges made to convince legislators of the importance of courtroom technology, they did not agree that it is critical and in structuring our budget, they added language to the budget bill that reads “... expenditures for courtroom audio and video upgrades shall be prioritized after cybersecurity, information technology infrastructure upgrades, software maintenance, hardware upgrades, licensing and appellate case management and electronic filing updates.” Those were the items we identified as critical needs.</p> <p>We anticipate the increased JSA fee will provide us with an additional \$3M each biennium on top of the approximately \$5M we already receive. For the next biennium, that is adequate funds for:</p> <ul style="list-style-type: none"> • Salary and benefits for IT staff, • Cloud infrastructure support and maintenance, • Cyber security and monitoring, • Software maintenance and support, and • Hardware refresh and go-live implementations. <p>We will have the opportunity to ask for funding for courtroom technology in the supplemental budget session next year.</p> <p>We ask that judges educate legislators and court participants on what technology in the courtroom means and the benefit it provides to everyone involved. Additionally, we would like judges to participate in the Joint Judiciary Committee meetings to talk about what’s going on in our branch, much of which will be centered around IT topics. More to come on that as the meetings get closer.</p> <p>The budget bill includes language requiring us to report to the Joint</p>

	<p>Appropriations and Joint Judiciary Committees by September 1, 2020, on progress on the implementation of the e-filing system.</p> <p>Other budget actions include:</p> <ul style="list-style-type: none"> • Denial of funding for a new workload study for circuit courts. • Additional funds for chancery court positions in the event the chancery court is working at full capacity right away, though this is likely not going to be the case. • Funding for maintenance and upgrades to exhibits in the Judicial Learning Center. • Funding for several circuit and district courts for new copiers and various other line items of minimal amounts. • Denial of requests from the district courts that had asked for additional salary funds. <p>There is a section of the bill requiring the legislative services office to hire a consultant to review the process of agencies requesting funds for IT projects and to make recommendations on IT requests that were not funded this session. The judicial branch is included as part of this review, but we aren't sure yet what that will look like. Technically all our IT requests were approved, they just didn't provide adequate funds to pay for them.</p> <p>There is also a section in the budget bill that requires agencies to prepare a plan for a 1% cut of general funds for the second year of the biennium. The governor vetoed the 1% wording and left it to read that agencies need to identify budget reductions. The way the bill is written, it appears to be for the executive branch only. We will follow up on this and let you know if it looks like we should be prepared with a plan of our own.</p> <p>Chief Justice Davis noted frustration. It is nearly impossible to educate individuals on the importance of technology in the courtrooms to the participants and the judges. What is more frustrating is we paid around \$80,000 to have a consultant tell us if we were on the right track with technology. The consultant found we were on track, but we needed more people and more money.</p>
<p>Chancery Court Committee</p> <p>Judicial Members: Justice Fox (Chair), Chief Justice Davis, Judge Fenn, Judge Waldrip, Ret., Judge Sullins, Ret.</p>	<p>1. Update – Justice Fox</p> <p>A. Necessary Funding to Date Approved by Legislature</p> <p>The budget request for Chancery Court was approved. The Committee is continuing under the assumption Chancery Court will be located in the new Casper state building. <u>[After the meeting, it was learned that the budget request for Chancery Court construction in the Casper state building, which had been contained in the Capital Construction budget, was not approved. For the time being, there is no funding for courtroom construction.]</u></p> <p>2. Reminder</p> <p>A. Rules out for Public Comment</p> <p>The proposed rules were adopted by the January 1st deadline set forth within the legislation. They are not effective immediately, and during this time, the</p>

	<p>proposed rules are out for public comment. Justice Fox noted Judge Campbell expressed several concerns. All judges are encouraged to take a hard look at the rules and provide input.</p>
<p>Judicial Conference Reports</p> <p><u>Circuit Conference President:</u> Judge Christensen</p> <p><u>District Conference President:</u> Judge Campbell</p>	<p>1. Circuit Court Conference – Judge Christensen</p> <p>The Circuit Court Judges’ Conference is tentatively set in May.</p> <p>It was noted the Toxicology and Chemistry units at the State Crime Laboratory are 4-5 months behind on their 5-6-month turnaround time on testing for drug cases. This has led to several dismissals throughout the State because of speedy trial issues. The concerns over the matter have been sent out.</p> <p>2. District Court Conference – Judge Campbell</p> <p>Substantial work sessions are planned for the April District Court Judges’ Conference. Topics for the work sessions include Chancery Court, and troubling comments made about some interim topics. The Conference may ask the BJPA in June to seek more input into legislative interim topics.</p>
<p>Judicial Branch Technology</p> <p><u>Courtroom Automation Committee</u></p> <p>Members: Chief Justice Davis (Chair), Judge Fenn, Judge Edelman, Judge Campbell, Judge Christensen, Judge Castano, Judge Haws</p> <p><u>Courtroom Technology Committee</u> Members: Chief Justice Davis (Chair), Justice Fox, Judge Lavery, Judge Johnson, Judge Christensen, and Judge Prokos</p>	<p><u>Court Automation Committee Updates</u> – Elisa Butler and Heather Kenworthy</p> <p>1. DCAC/CCAC – Heather Kenworthy</p> <p>A. FCE Circuit</p> <p>Buffalo and Sheridan are the latest court additions to FCE. There are 9 courts remaining. A total of 18 courts and 20 databases have been migrated. We are continuing to meet with the Circuit Court Change Committee once a month to review requested global configuration changes. The next migration will consist of 3 courts and training is scheduled for weeks of March 30th and April 13th.</p> <p>B. FCE District</p> <p>Work sessions are being held every other week with the District Court FCE Committee on configurations of civil, criminal, and juvenile cases. As soon as we get a test migration from the vendor, we will review that with the Committee. Additionally, the monthly committee meetings where all the elected district court clerks are invited to attend have picked back up.</p> <p>2. Jury Management – Heather Kenworthy</p> <p>The first trials for Rollout Group 3 have been scheduled. The Campbell County District Court will have one in early April.</p> <p>A. Commencement of Activities for Group 4</p> <p>We will begin reaching out to the courts in Rollout Group 4 soon. Training for this group is scheduled for the week of June 2nd.</p> <p><u>E-Filing Update</u> – Elisa Butler</p> <p>1. Committee Work</p>

	<p>We have been working with the E-filing Committee since September 2019. Three vendors were selected to do demonstrations. Subsequently, the Committee requested to work in a test environment in each system. The testing in each system has been completed over the last few months. The Committee met recently to discuss the pros and cons of each system, and the voting process has begun. A decision from the Committee is expected this week, and that decision will be presented to the Court Automation Committee for a final recommendation to the Supreme Court for the final decision.</p> <p><u>Courtroom Technology Committee Update – Nate Goddard</u></p> <p>1. Next Meeting TBD</p> <p>Recently upgraded audio systems include the Worland Circuit Court, Evanston Circuit Court, and the Goshen County District Court.</p> <p>Given the current budget climate, the scheduled Courtroom Technology Committee meeting has been postponed for now.</p> <p><u>Azure Migration – Nate Goddard</u></p> <p>We are 100% migrated to the Cloud as of mid-February. Additionally, this past weekend, staff worked to remove the last legacy equipment.</p> <p><u>Annual Pen Testing – Nate Goddard</u></p> <p>The annual pen testing was completed the last of January. Our vendor spent a little under two weeks actively trying to hack and compromise our internal network. Most of the findings made have been resolved with the decommissioning of the datacenter. The vendor also spent time on-site in Gillette testing the wireless. There was nothing major to report from that testing.</p>
<p>Permanent Rules Advisory Committee (PRAC)</p> <p><u>Court Records Division</u> Judicial Members: Justice Gray, Judge Overfield, Judge Castano</p> <p><u>Appellate Division</u> Judicial Members: Justice Boomgaarden, Judge Fenn</p> <p><u>Civil Division</u> Judicial Members: Justice Fox (Chair), Judge Castano, Judge Kricken, Judge Rumpke</p> <p><u>Criminal Division</u> Judicial Members: Justice Kautz (Chair), Judge Sharpe, Judge Phillips</p> <p><u>Evidence Division</u> Judicial Members: Judge Rumpke (Chair), Judge Nau, Judge Radda</p>	<p>1. Appellate Rules Division – Justice Boomgaarden and Patty Bennett</p> <p>No update.</p> <p>2. Civil Rules Division – Justice Fox and Patty Bennett</p> <p>No update.</p> <p>3. Criminal Rules Division – Patty Bennett</p> <p>A. Input on Circuit Court Executive Committee recommendation to amend Criminal Procedure Rule 4(a) as set forth in Appendix 4</p> <p>The Circuit Court Executive Committee has proposed changes to Criminal Rule 4 (a). Patty Bennett noted she would be happy to take any input back to Justice Kautz.</p> <p>The Circuit Court Executive Committee is requesting this change as Rule 4 states the judicial officer shall issue a warrant upon request from the state attorney. The state attorney name is not on the warrant, it is the circuit court judges name. In the past the judiciary and county attorneys have worked this out informally. This seems to be changing for a growing number of jurisdictions.</p>

<p><u>Juvenile Division</u> Judicial Members: Judge Wilking (Chair), Justice Kautz, Judge Campbell, Judge Fenn</p>	<p>There do seem to be requests where an arrest warrant may be unnecessary, but there is pushback from the county attorney to issue to warrants. This change allows for a warrant upon judicial consideration instead of a rubber stamp by the circuit court judicial officer.</p> <p>Patty noted the Supreme Court would get this change from the Committee once reviewed.</p> <p>Judge Campbell noted his resistance, one reason being the interpretation of fundamental distrust of prosecutors. Although he agrees with Judge Christensen as a practical matter, it is hard to know what information there is on an individual and how many offenses they have prior to this one. There is no method to communicate those reasons to the judge.</p> <p>Patty will pass those concerns along to Justice Kautz and will let Judge Campbell know when the next meeting is scheduled.</p> <p>4. Rules of Evidence Division – Judge Rumpke and Patty Bennett</p> <p>No update.</p> <p>5. Juvenile Rules Division – Judge Campbell and Patty Bennett</p> <p>A. Meeting on February 20</p> <p>The Committee discussed creating rules governing jury size and the number of peremptory challenges each in abuse/neglect, delinquency, and CHINS cases. Proposed rules are being drafted.</p>
<p>Access to Justice Commission</p>	<p>1. Update – Justice Boomgaarden</p> <p>A. Commission 2020 Report to the Wyoming Supreme Court (Appendix 5)</p> <p>With participation of Judge Day, Judge Phillips and Janet Montgomery the Access to Justice Commission completed its review of the 2014 Five Year plan. The Commission prepared a written report, a copy of which was provided to the BJPA.</p> <p>B. New Bylaws Effective March 1, 2020</p> <p>I. Order Repealing the Existing Bylaws and Rules of the Wyoming Access to Justice Commission and Order Adopting Bylaws and Rules of the Wyoming Access to Justice Commission (Appendix 6)</p> <p>The 2020 Report and Replacement By-laws (also provided to the BJPA) reflect the streamlined membership, functions and priorities for the Commission moving forward. The Commission will meet and move forward under the 2020 Report on March 27th. A special joint meeting with the Equal Justice Wyoming Board and legal service providers will be scheduled for late May/early June to discuss the statewide legal needs assessment with the vendor who prepared that assessment.</p>

Court Security Commission	<p>1. Update – Ronda Munger</p> <p>The Commission has been meeting around the State and looking at various courthouses. This allows the Commission to see the different ways counties are using funds to enhance security in those courthouses. The most recent meeting took place on January 21st in Wheatland. The next meeting will be in Basin on May 19th.</p> <p>During the legislative session, there was a bill sponsored by the Senate Appropriations Committee to repeal the Court Security Commission. It is our understanding there was a push to stop requests for State funding for security, and this might be a way to accomplish that. Justice Kautz did present to the Joint Appropriations Committee. The bill was laid back but may reappear.</p>
Judicial Education	<p>1. Update – Elisa Butler</p> <p>Judicial education webinars will be starting up soon. This is an exciting time. The Committee will be meeting in the next few weeks to talk about the conference in September.</p> <p>CJE reports should have been received for 2019. If you have questions, please let Elisa Butler know.</p> <p>Patty Bennett additionally noted the Municipal Court new judge training and conference in May will likely be canceled.</p>
New Business	<p>1. Member Input</p> <p>Chief Justice Davis noted the extensive discussion about the virus outbreak and potential issues for the Judiciary. This is a fluid situation, and we will continue to adapt with it, as all the other states have been doing as well.</p> <p>Lily relayed we are receiving updates from the State Health Officer on Monday, Wednesday, and Friday. Those calls are statewide with all of the department and agency heads. If there are any of the judges that would like to be included on those calls, please let us know and we will forward the invite on to you. Chief Justice Davis indicated that information from those calls could be summarized and sent on.</p> <p>We will continue to be proactive regarding the situation and will keep the open lines of communication with all of you. Chief Justice Davis noted he would have a discussion with the justices, conference presidents, and staff to see when the pandemic plan should be activated.</p> <p>Please reach out should you have any further comments or concerns. We are in this together.</p>
Adjournment	<p>The meeting adjourned at 10:50 a.m.</p>

Action items:

1. Staff to send out Jasmine Peters memo regarding virus outbreak research.
2. Conferences to hold BJPA elections per Rule 5 of the BJPA in May. Three terms are expiring at the end of June. Please send those names to Lily Sharpe after elections are held.
3. Patty Bennett will pass concerns along regarding the proposed change to Criminal Rule 4 to Justice Kautz and will let Judge Campbell know when the next meeting is scheduled.

Action taken by Board:

1. None.

Appendix 1: Notes: COVID-19

Appendix 2: Rules and Procedures Governing the Board of Judicial Policy and Administration (Rule 5)

Appendix 3: Bill Summaries

Appendix 4: Circuit Court Executive Committee recommendation to amend Criminal Procedure Rule 4(a)

Appendix 5: Commission 2020 Report to the Wyoming Supreme Court

Appendix 6: Order Repealing the Existing Bylaws and Rules of the Wyoming Access to Justice Commission and Order Adopting Bylaws and Rules of the Wyoming Access to Justice Commission

Attachments are highlighted

Approved on April 14th, 2020

Notes: COVID-19

What are other states doing?

NH – suspending jury trials through 4/30/20 but courts remain open

TX – may suspend jury trials soon, on VPN/pushing Teams, and ready to telework

KY – buying more VPN, training staff on VC, and recognizing that jails want video capabilities

AR – schools shutting down, discussing the ability to telework, and talking about video capabilities with the courts

NJ – about to close courthouses statewide, looking for streaming options for the public, suspending reporting for petit jury service, no new criminal or civil jury trials, avoiding large gatherings, conducting hearings remotely, testing remote operations, and cancelling non-essential events

IA – status quo, nothing has changed (as of 3/14/20)

CA – normal court operations

- local courts are granting continuances, deputies are sending people home if they are exhibiting illness, if required the court will only hold constitutionally-mandated hearings—arraignments, criminals who haven't waived speedy, juvenile detention hearings, and emergency protective orders)

CT – closing schools, universities, and events, and courts are expanding to use audio/video conferencing, and staggering dockets to reduce the number of people in court at one time ([article 3/13/20](#))

DE – conducting proceedings telephonically and having parties confer to decide if continuances are appropriate if a party or witness has been exposed to COVID-19 (a joint motion should be filed)

FL – allows chief judges and courts to expend funds to purchase emergency supplies, rescheduling hearings farther out for people not in jail, setting teleconferences on regularly scheduled hearings

- Miami-Dade – working on things with statute of limitations, courtroom video ready, and not closing but pushing back non-essential hearings
- Florida has a Judicial Administrative Rule (2.205) that allows the chief judge of any circuit or district, in the event of a natural disaster, to grant relief from deadlines, including speedy trial in criminal and juvenile cases, all civil proceedings, and appellate time limitations.
 - Wyoming does not have a similar rule that I could find

IL – reduce the number of people coming into court through the end of the month, courts remain open, and if there is a jury trial then healthy jurors must appear ([press release 3/13/20](#))

IN – court of appeals employees are to work remotely through 3/16/20 (this was done after learning that employees had exposure to people who tested positive for COVID-19) and attorneys are allowed to file notice of remote appearances

MI – all trials (except criminal trials when a defendant is in custody) are continued, Michigan is under state of emergency, it is recommended that judges not hold anyone in contempt because they were late due to the virus, hearings with vulnerable persons are postponed, civil cases/hearings are postponed upon request, all trials are continued, considering the possibility of closing the courthouse (U.S. E.MI banned all people with fevers, coughs, or visited areas with widespread cases and require people to disclose if they have traveled to certain areas) ([Order 3/15/20](#))

OH – giving 90-day extensions to people owing fines, fees, and costs and if that falls on a weekend, it is due the next business day

- This seems like a possibility for Wyoming, instead of waiving filing fees.

PA – sending people home with symptoms

- Chief Judge requested PA’s speedy trial rule be suspended for the next two weeks and the supreme court took this idea under advisement. The concern is that this would be unprecedented and would be done proactively instead of waiting until necessary to do so ([article 3/12/20](#)).

RI – judge declared a mistrial because a juror had symptoms of the virus (the juror tested negative) ([article 3/6/20](#))

WA – authorizing partial closures or modified operations, hearings are to be conducted via phone, vulnerable persons are excused from jury duty, allowing in-custody and out-of-custody defendants to appear via phone

NH – suspending jury trials through 4/30/20 but courts remain open to the public

CO – cancelled large group gatherings

GA – suggestion to eliminate non-essential meetings, visits, and jury trials

NC – automatic continuances of at least 30 days for all cases scheduled, with limited exceptions for due process or emergencies (issued two emergency directives 3/13/20)

VT – postponed all jury trials until 4/15/20 except for in-custody defendants who have not waived speedy, defendants in-custody and pending trial, and any others in the discretion of the judge ([Order 3/13/20](#))

TN – keeping courts open, suspended all in-person proceedings through 3/30/20 except for the following: proceedings to protect constitutional rights of criminal defendants, civil and criminal jury trials already in progress, proceedings related to relief from abuse, emergency child custody orders, child protection matters, temporary injunctive relief, emergency mental health orders, protection of elderly and vulnerable persons, proceedings related to public health emergency, and others as approved by the Chief Justice. The authority to determine in-person court proceedings is with the presiding judge for each district. Also extended all deadlines in court rules, statutes, ordinances, admin. rules, set to expire between 3/13/20 and 3/30/20 until 4/6/20. ([Order Suspending In-Person Court Proceedings, effective March 13, 2020](#)).

WY – Judge Kricken issued an order that all trials/hearing through March will remain on the docket, encouraged attorneys to appear by phone, allowing fax/email filing fees through the end of March and the clerk’s office is waiving filing fees associated with fax/email through end of March (WYO. R. CIV. P. 5(e)).

*The main concern is obvious—public safety. It looks like most jurisdictions are doing similar things to protect their community. I think what Wyoming courts do should depend on the current circumstances. For example, has there been an outbreak in the county?

*The information on what other states are doing was gathered on 3/14/20 and 3/15/20.

Other Notes/Options to Implement

- Post notices on the doors to courthouses
 - “The Cincinnati-based 6th U.S. Circuit Court of Appeals is *posting notices on all courtrooms advising visitors they should not enter if they have been diagnosed with COVID-19 or had contact with anyone with the diagnosis*, if they have been asked to self-quarantine, if they have cold or flu symptoms, if they have traveled to high-risk countries or been in close contact with someone who visited the

countries.” *SCOTUS and other courts are restricting visitors or canceling proceedings amid coronavirus concerns*, ABA JOURNAL (March 12, 2020).

- “I further order that the clerks of superior court *shall post a notice at the entrance to every court facility in their county directing that any person who has likely been exposed to COVID-19 should not enter the courthouse*. A person who has likely been exposed to COVID-19 who has business before the courts shall contact the clerk of superior court’s office by telephone or other remote means, inform court personnel of the nature of his or her business before the court, and receive further instruction.” Emergency Directive No. 2, NC (March 13, 2020).

Questions – Judge Christensen

1. What are bare minimal operating requirements? Suspend/freeze/toll all civil filing and hearing timelines.

- Wyoming Rules of Civil Procedure
 - Rule 5(e) - Serving and Filing Pleadings and Other Papers
 - “Papers may be filed, signed, or verified by electronic means (including but not limited to email) if the necessary equipment is available to the clerk. No documents shall be transmitted to the court by facsimile or electronic means for filing without prior telephonic notification to the clerk of court. *Only under emergency circumstances shall documents be filed by electronic means (including but not limited to email) or facsimile transmission*. Any paper filed by electronic means must be followed by an identical signed or otherwise duly executed original, or copy of any electronic transmission other than facsimile transmission, together with the fee as set forth in the Rules For Fees and Costs for District Court or the Rules For Fees and Costs For Circuit Court, mailed within 24 hours of the electronic transmission. The clerk upon receiving the original or copy shall note its date of actual delivery, and shall replace the facsimile or other electronic transmission in the court file. A paper filed by electronic means in compliance with this rule constitutes a written paper for the purpose of applying these rules. *No document which exceeds ten (10) pages in length may be filed by facsimile or electronic means*. All format requirements contained in applicable rules must be followed. The court may reject any paper filed not in compliance with this rule.” WYO. R. CIV. P. 5(e) (emphasis added).
 - This rule gives the ability to file documents electronically. If the courts decide to go this route, I recommend considering extending the maximum number of pages per document.
 - This rule was relied on by Judge Krickin in Albany County.
 - Rule 6 - Time
 - The court in its discretion can “with or without motion’ enlarge a period of time if a request is timely made.
 - This does not apply to action under Rules 50(b) and (c)(2), 52(b), 59(b), (d), and (e), and 60(b).

- Courts can allow for extensions of time for filings. This could be a good option for the immediate future.
- Rule 77 - District Courts and Clerks – Notice of an Order or Judgment
 - (a) – “district courts *shall be deemed always* open for the purpose of filing any pleading or other paper, of issuing and returning any mesne or final processes, and of making and directing all interlocutory motions, orders and rules.”
 - My interpretation of this rule is that the courts should always be open.
 - (b) – if convenient, all trials on the merits shall be conducted in open court and in a regular courtroom. All other proceedings can be done in chambers and anywhere in the state. If outside the county, the parties must consent.
 - (c) – the clerk’s office, with the clerk or a deputy, *must be open* during all business hours every day except Sat/Sun/and legal holidays
 - Likewise, I think the clerk’s office must remain open. However, I think the courts could limit the number of staff working in-person.
- District Court Rules
 - Rule 201 - Continuances
 - “Continuances will be granted only for good cause shown in writing”.
 - I think many attorneys may file continuances with the court in the upcoming days and weeks.
 - Rule 202 - Time Limits
 - Per WYO. R. CIV. P. and WYO. R. CRIM. P., time limits may not be extended or modified by agreement of counsel, but only by order of the court.
 - Rule 802 - Use of Telephone Conference Calls
 - This Rule allows telephone conference calls for any proceeding in civil cases and makes it also available in criminal matters.
- Ideas/Concerns
 - If the Department of Health quarantines people, one issue that may arise is how will the quarantine affect potential jurors, parties, and court personnel.
 - There could be an issue with court reporters.
 - One idea is for the courts to use Liberty Court Player for hearings when a court reporter is not necessary, but the parties want a recording.
 - Based on other jurisdictions, we could change all hearings to telephonic hearings if necessary, through the end of April and/or suspend any non-essential jury trials (civil trials and criminal trials if the defendant waived speedy).
 - Ultimately, I think courts need to remain open, but that courts can try to limit public access.
 - Another option could be to close the courts to the public but allow access to employees and parties/witnesses/necessary personnel.
 - I think how and when to implement protective measures really depends on the community.

- For example, in Cheyenne, there has not been a diagnosed person yet. I think a reasonable approach would be to maintain the status quo but try to reduce foot-traffic (allowing parties to appear via phone). I think if there is an outbreak in our community, then I think other measures should be implemented.
- I think we need to keep courts open for access.
 - Courts can limit non-essential personnel to work from home or try to minimize public exposure.
 - Courts can post warnings about COVID-19 on the doors and ask the public to refrain from coming in the building if they exhibit any symptoms.
 - This may cause some issues with the county if they do not agree with this idea.
 - However, one issue to consider is if a criminal defendant (who hasn't waived speedy) has COVID-19 but wants to go forward with his or her trial.
- As for filings, I think courts could either allow electronic filings like Judge Kricken has done or extend the time for filings to parties per Rule 6 (if requested).
 - I think providing an extension for filings may be the easier route (if extensions are requested) or if the Supreme Court grants a general extension.
 - If extensions are granted (for filings), I think a reasonable extension is anywhere from two to four weeks.
 - Additional extensions may be necessary depending on the community outbreak of COVID-19.

2. Are there any criminal rules that can be suspended? Such as defendant's presence in critical hearings. Speedy timelines, etc.

- Wyoming Supreme Court could issue an order suspending speedy trial if necessary, but this could be met with opposition/problems. I am not convinced this is the right thing to do at this point. This may be an issue that each district needs to assess based on their community and the status of COVID-19 in their community.
 - PA is currently considering the issue of suspending the speedy trial rule. The concerns are that it is a proactive approach, and some believe it should be done only if absolutely necessary.
 - AK is contemplating suspending speedy trial but "aren't there yet".
 - Most states are suspending civil trials and criminal trials that the defendant has waived speedy. It appears that most courts are still holding criminal jury trials if the defendant has not waived speedy.
 - Issues with juries will have to be addressed.
- Wyoming Rules of Criminal Procedure
 - Rule 5 - Initial Appearance – IA must be within 72 hours, in-person or by video (video appearance is governed by Rule 43.1(b)(1))
 - (c) Prelim. Hearings – 10 days after the IA if the defendant is in custody, not later than 20 days after IA if the defendant is not in custody

- May extend these limits *with D's consent* and upon showing of good cause or *without D's consent* "by a judicial officer only upon a showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice."
- Rule 5.1 - Prelim. Exam. – use of video is governed by 43.1(b)(2)
- Rule 10 - Arraignments – use of video is governed by 43.1(b)(3)
- Rule 26 - Taking of Testimony – (b) the court may allow testimony by electronic means at a hearing *or if D's substantial rights* are not prejudiced at trial.
 - This may come into play if a criminal defendant who has not waived speedy has a witness who is available by electronic means.
- Rule 43 - Presence of Defendant – the defendant must be present at every critical stage (IA, Prelim. Exam., arraignment, plea, trial, sentencing)
 - Some of these "appearances" can be through video
- Rule 43.1 - Use of Video Conferencing
 - It is in the court's discretion for a defendant to appear via video:
 - Initial appearance (with or without the defendant's consent)
 - Prelim. exam. (if the defendant consents in writing or on the record)
 - Arraignment and plea (if the defendant consents in writing or on the record)
 - Felony probation revocation (if the defendant consents in writing or on the record – for non-evidentiary hearings)
 - Misdemeanors (if the defendant consents in writing or on record the defendant can: waive Rule 11 rights, enter plea, admit to prob. revocation allegations, and sentenced at location other than court)
 - *Video conferencing SHALL NOT be used for bench trials, jury trials, or felony sentencing*
 - 7-11-301 hearings can be used with or without the defendant's consent
 - Rule 35 motions can be used with or without the defendant's consent
 - The defendant's attorney may also appear by video if the defendant does, *but the court can not order the defendant's attorney to do so.*
 - If the defendant is appears by video, then his attorney needs to be physically with him, or the defendant must waive the right to have his attorney with him.
 - If defendant and his or her attorney are not together and the defendant waived that right, then they can consult privately through a recess as an accommodation.
 - If the defendant can appear by video, so can the Judge (subsection (d)).
- Rule 48 - Speedy Trial
 - Waiver of speedy is allowed if the defendant consents, the state's evidence is unavailable, *or required in the due administration of justice and D won't be substantially prejudiced.*
 - The third option could work depending on the circumstances – how long has it already been?
 - A proposed continuance by the court must be given to the defendant and the defendant has the ability to object in writing to the

continuance. However, the defendant must explain how the continuance will be prejudicial.

- Rule 55 - Court Reporters – *court reporters must report all testimony and proceedings* in open court and conferences with the judge in open court and in chambers.
- Rule 56 - Courts and Clerks – “court *shall be deemed always open* for the purpose of filing any paper, or issuing and returning process and of making motions and orders.” The clerk’s office and the clerk or deputy *must be open* during normal business hours on all days except Sat/Sun/and legal holidays.
 - Like the WYO. R. CIV. P., I believe courts should remain open.

3. *Can courts reduce in person front window traffic by requiring citation payments online? Waiver of online payment fees? Require Email or fax filings, etc. and waiver of associated fees.*

- See above on WYO. R. CIV. P. 5(e) and what Judge Kricken has done.
- Ideas
 - Again, I think one easy way to resolve this issue is to allow for extensions for some filings or payments.
 - One example of this is in Ohio. In Ohio, people are given a 90-day extension for paying fees.
 - I believe people can still pay by mail.

Title 5—Courts

- 5-2-113: “It shall be the duty of the supreme court, from time to time, to prescribe rules of practice for said court, *not inconsistent with the constitution or laws of this state*, and when said rules are adopted by said court, the same shall be as binding upon the court, and the attorneys thereof, and the parties having business therein as though the same were enactments of the legislature of the state.”
- 5-2-114: “The supreme court of Wyoming may from time to time adopt, modify and repeal general rules and forms governing pleading, practice and procedure, *in all courts of this state*, for the purpose of promoting the speedy and efficient determination of litigation upon its merits.”
 - I think this provision could be used by the Wyoming Supreme Court to provide some uniformity on how Wyoming deals with COVID-19.
- 5-2-115: “(a) Such rules may govern: (i) The forms of process, writs, pleadings and motions and the subjects of parties, depositions, discovery, trials, evidence, judgments, new trials, provisional and final remedies and all other matters of pleading, practice and procedure; and (ii) Any review of or other supervisory proceedings from the judgment or decision of any court, board, officer, or commission when such review is authorized by law. (b) *Such rules shall neither abridge, enlarge nor modify the substantive rights of any person nor the jurisdiction of any of the courts nor change the provisions of any statute of limitations.*”

- I think there is a problem here if a rule attempts to change a statute of limitations or by enacting a rule that may negatively impact a person's substantive rights (I think this could be interpreted to interfere with speedy trial).
- 5-2-116: "Upon the adoption of any rule or form the supreme court shall enter it in its proceedings and shall fix the date upon which such rule or form shall become effective but such effective date shall be at least sixty (60) days after notice thereof has been published by the supreme court in such publication as it may designate. From and after the effective date of any such rule or form all laws in conflict therewith shall be of no further force or effect."

Rules and Procedures Governing the Board of Judicial Policy and Administration

Rule 1. Supreme Court.

In accordance with the Supreme Court's Order Establishing Board of Judicial Policy and Administration and Appointing Members, dated May 24, 2000, the superintending authority vested in the Wyoming Supreme Court by Article 5, Section 2 of the Wyoming Constitution is delegated to the Board of Judicial Policy and Administration.

Rule 2. District Courts.

In accordance with the resolution of District Courts unanimously adopted in June 2001, the Wyoming District Courts delegate their administrative authority as established by Article 5, Section 1 of the Wyoming Constitution and W.S. 5-3-102(b) and 9-2-1002(c), except for the submission of budgets, to the Board of Judicial Policy and Administration.

Rule 3. Board of Judicial Policy and Administration.

Pursuant to the Wyoming Constitution, the order of the Wyoming Supreme Court and the resolution of the Wyoming District Courts, the Board will exercise general superintending control over the judicial department for administrative, policy making and planning purposes.

Rule 4. Membership.

The Board is composed of the following members: the Chief Justice of the Supreme Court and two justices of the Supreme Court; three district court judges; and three circuit court judges.

Rule 5. Terms of Members and Vacancies.

The Chief Justice of the Supreme Court shall serve on the Board during tenure in that office. The other Board members shall be elected by their respective judicial divisions. Initial appointments shall be for staggered terms of one to three years. Thereafter, all appointments shall be for terms of three years, with the exception of the Chief Justice of the Supreme Court. Board members may serve successive terms. Elections to fill vacancies shall be held in May of each year. Vacancies may be declared by the Board because of the death, retirement, resignation, or nonattendance of a member at three meetings during a calendar year. If necessary, a member may attend by telephone.

Rule 6. Responsibilities of Presiding Officer.

The Chief Justice is the presiding officer of the Board. It is the responsibility of the presiding officer to preside at meetings of the Board and serve as chief spokesperson for the Board.

Rule 7. Organization.

The presiding officer shall preside at any meeting. In the chairperson's absence, the member with the most seniority in the judiciary shall act as the presiding officer. The presiding officer may appoint an executive committee, standing committees, and advisory committees at any time to assist the Board in carrying out its responsibilities. Existing Supreme Court committees may be designated as standing or advisory committees of the Board by order of the Chief Justice.

Rule 8. Board Meetings.

The Board of Judicial Policy and Administration shall act only at a meeting, unless agreed upon unanimously by the Board, in which case the Board may take action or vote by email or other means. The Board shall meet quarterly in March, June, September, and December or as otherwise agreed upon by the Board, but in any event no less than four times a year. Additional meetings may be called at the discretion of the presiding officer. Standing or advisory committee meetings may be called at the discretion of the committee chairperson. The Wyoming Public Meetings Act, Wyo. Stat. Ann. § 16-4-401 et seq., by its terms, does not apply to the judiciary. Meetings of the Board are not public unless the Board, in its discretion, determines a particular meeting or agenda item should be open to the public.

Rule 9. Reporter for the Board.

The State Court Administrator shall be the executive secretary for the Board. It shall be the duty of the executive secretary to prepare and keep the minutes of all meetings. In the executive secretary's absence, the Board shall choose a member to record the minutes.

Rule 10. Board Minutes.

The minutes shall record the names of the members present, any and all actions taken by the Board, and any other matters that the Board may deem appropriate. Copies of the minutes shall be distributed as deemed appropriate by the Board and shall be filed in the office of the Clerk of the Supreme Court as a public record.

Rule 11. Actions and Voting.

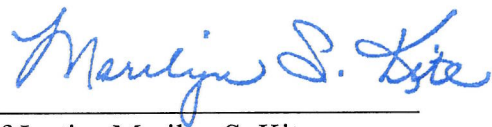
Six members of the Board shall constitute a quorum. Once a quorum has been established, that quorum shall carry throughout the duration of the meeting. Approval by a majority of those voting shall constitute an action of the Board, except that a majority vote of five is required at any meeting where less than nine members are present. The Chairperson is a voting member of the Board. A tie vote means that the matter voted on has failed adoption. A member may vote on specific issues by written proxy delivered to the Chairperson. A motion to reconsider can only be made by a Board member who voted on the prevailing side of an issue.

Rule 12. Staff.

Under the Chief Justice's direction, the State Court Administrator's office shall provide staff support for the Board.

Dated this 23rd day of March, 2011.

Board of Judicial Policy and Administration

By: 
Chief Justice Marilyn S. Kite

NOTE: The summaries below are intended merely to help identify possible areas of interest. THE FULL BILL MUST BE REVIEWED TO ASSURE COMPLETENESS AND CORRECTNESS. LINK TO FULL BILLS: <http://legisweb.state.wy.us/2020/billreference/BillReference.aspx?type=ALL>

BILL & LSO #	CATCH TITLE	SUBJECT	OVERVIEW	HYPERLINK	FINAL ACTION
HB0005	Driver's licenses and IDs.	Digital driver's licenses and IDs	<ul style="list-style-type: none"> Authorizing digital driver's licenses and identification cards. 	https://wyoleg.gov/Legislation/2020/HB0005	<ul style="list-style-type: none"> Assigned Chapter Number 15
HB0008	Digital expression protection.	Limiting criminal liability for digital expression	<ul style="list-style-type: none"> Providing limitations on criminal liability for digital expression. 	https://wyoleg.gov/Legislation/2020/HB0008	<ul style="list-style-type: none"> Assigned Chapter Number 16
HB0009	Abstracts of court records.	Abstracts of court records to state agencies	<ul style="list-style-type: none"> Requiring courts to provide abstracts of court records to state agencies; Specifying information to be included in abstracts; and Making conforming amendments. 	https://wyoleg.gov/Legislation/2020/HB0009	<ul style="list-style-type: none"> Assigned Chapter Number 4
HB0010	Human trafficking-penalty for subsequent conviction.	Subsequent human trafficking conviction penalties	<ul style="list-style-type: none"> Relating to crimes and offenses; Providing a penalty for subsequent convictions of human trafficking; and Making conforming amendments. 	https://wyoleg.gov/Legislation/2020/HB0010	<ul style="list-style-type: none"> Assigned Chapter Number 1
HB0011	Qualified residential treatment programs.	Assessment for placement of children in residential treatment programs	<ul style="list-style-type: none"> Requiring an assessment for children placed in a qualified residential treatment program; Requiring court review and presentation of information about the program; and Making conforming amendments. 	https://wyoleg.gov/Legislation/2020/HB0011	<ul style="list-style-type: none"> Assigned Chapter Number 2
HB0012	Motor vehicle violations – penalties.	Motor vehicle penalties	<ul style="list-style-type: none"> Removing the imprisonment penalty under the general penalty provisions for violations relating to motor vehicles generally, for 	https://wyoleg.gov/Legislation/2020/HB0012	<ul style="list-style-type: none"> H Received for Concurrence

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			<p>traffic violations and for violations of the Driver's License Act;</p> <ul style="list-style-type: none"> • Removing the imprisonment penalty for failing to return a license or registration after suspension; and • Providing imprisonment penalties for specified violations. 		
HB0016	Consolidation of theft crimes.	Theft crime penalties	<ul style="list-style-type: none"> • Amending the elements of theft to incorporate various methods of stealing into one crime; • Modifying penalties for stealing related offenses; • Providing a statement of intent; • Making conforming amendments; and • Repealing provisions incorporated into the offense of theft. 	https://wyoleg.gov/Legislation/2020/HB0016	<ul style="list-style-type: none"> • S President Signed HEA No.0058
HB0031	Criminal justice-mental health-substance use programming.	Creating new programs	<ul style="list-style-type: none"> • Requiring the department of health and the department of corrections to collaborate to reduce criminal offender recidivism by improving mental health and substance use programming and funding; • Creating new programs; • Creating a unit within the department of corrections; • Making an appropriation; and authorizing new positions. 	https://wyoleg.gov/Legislation/2020/HB0031	<ul style="list-style-type: none"> • S President Signed HEA No. 0062
HB0038	Weed and pest amendments.	Amends inspections and remediation of weed and pest infestations	<ul style="list-style-type: none"> • Amending provisions related to inspections and remediation of weed and pest infestations. 	https://wyoleg.gov/Legislation/2020/HB0038	<ul style="list-style-type: none"> • Pursuant to JR 2-1(c): H Appointed JCC02 Members
HB0042	Good time	Good time	<ul style="list-style-type: none"> • Amending requirements for establishing rules 	https://wyoleg.gov/Legislation/2020/HB0042	<ul style="list-style-type: none"> • S President

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	allowances jail time.	allowances	for good time allowances to inmates and parolees; <ul style="list-style-type: none"> • Requiring rulemaking; and specifying applicability. 		Signed HEA No.0028
HB0048	Voyeurism-amendments.	Amending crime elements	<ul style="list-style-type: none"> • Amending the elements of the crim of voyeurism. 	https://wyoleg.gov/Legislation/2020/HB0048	<ul style="list-style-type: none"> • S Appointed JCC01 Members
HB0050	Government procurement-amendments.	Procurement amendments	<ul style="list-style-type: none"> • Modifying provisions related to procurement by governmental entities; • Specifying duties of the state construction department and the University of Wyoming board of trustees; and • Requiring rulemaking. 	https://wyoleg.gov/Legislation/2020/HB0050	<ul style="list-style-type: none"> • S President Signed HEA No.0030
HB0065	Jury procedure amendments.	Amending provisions and procedures	<ul style="list-style-type: none"> • Amending provisions related to causes for juror excusal; and • Amending procedures for juror exemption and discharge. 	https://wyoleg.gov/Legislation/2020/HB0065	<ul style="list-style-type: none"> • S President Signed HEA No.0037
HB0068	Sex offender-prohibited access to school facilities.	Prohibiting access to school facilities	<ul style="list-style-type: none"> • Repealing exceptions that allow registered sex offenders to be in, on or near school buildings and grounds under certain specified circumstances. 	https://wyoleg.gov/Legislation/2020/HB0068	<ul style="list-style-type: none"> • S President Signed HEA No.0050
HB0073	Nicotine products-taxation.	Amending penalty applicability	<ul style="list-style-type: none"> • Imposing taxes on nicotine products as specified; • Providing for collection of the taxes imposed; • Requiring a license to sell nicotine products; • Requiring reporting of nicotine products sold; • Providing penalties; and • Making conforming amendments. 	https://wyoleg.gov/Legislation/2020/HB0073	<ul style="list-style-type: none"> • S President Signed HEA No.0032
HB0103	Chancery court amendments.	Chancery court amendments	<ul style="list-style-type: none"> • Amending provisions related to the chancery court of the state of Wyoming; • Clarifying disposition of fees; 	https://wyoleg.gov/Legislation/2020/HB0103	<ul style="list-style-type: none"> • S President Signed HEA No.0026

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			<ul style="list-style-type: none"> • Clarifying the jurisdiction of the chancery court as specified; • Making technical corrections; and • Making conforming amendments. 		
HB0109	Electronic monitoring in long-term care facilities.	Admissibility of electronic monitoring and liability	<ul style="list-style-type: none"> • Regulating electronic monitoring in long-term care facilities; • Providing guidelines and obligations for facilities and residents; • Providing penalties and evidentiary standards; • Requiring rulemaking; and • Specifying applicability. 	https://wyoleg.gov/Legislation/2020/HB0109	<ul style="list-style-type: none"> • S 3rd Reading: Passed
HB0118	Second Amendment Preservation Act.	Second Amendment Preservation Act	<ul style="list-style-type: none"> • Establishing the Second Amendment Preservation Act; • Describing certain actions as infringing on the right to keep and bear arms; • Invalidating, not recognizing and rejecting certain actions by the federal government; • Providing for the protection of specified rights; • Specifying liability; • Providing for the termination of and prohibiting the employment of specified persons; • Providing for declaratory judgments; and • Providing legislative findings and declaration of authority. 	https://wyoleg.gov/Legislation/2020/HB0118	<ul style="list-style-type: none"> • S 2nd Reading: Passed
HB0127	Prohibition of female genital mutilation.	Providing penalties	<ul style="list-style-type: none"> • Specifying that aggravated assault and battery includes female genital mutilation; • Specifying that human trafficking includes transporting a person for the purpose of female genital mutilation 	https://wyoleg.gov/Legislation/2020/HB0127	<ul style="list-style-type: none"> • H Received for Concurrence

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			<ul style="list-style-type: none"> • Providing for a civil action to recover damages for female genital mutilation; • Providing a definition; • Requiring development of a training program; • Prohibiting professional licensure of health care professionals convicted of performing female genital mutilation; and • Specifying female genital mutilation and trafficking as causes for mandatory child abuse reporting and requiring inclusion of convictions in the child abuse registry. 		
HB0132	Unpaid wage claim amendments.	Clarifying jurisdiction	<ul style="list-style-type: none"> • Specifying authority of the department of workforce services to investigate unpaid wage claims; • Specifying employees who can file suit for payment of wages due; • Amending when interest is authorized for unpaid wage claims; • Implementing an anti-retaliation provision for issues related to unpaid wages; • Clarifying the jurisdiction for legal proceedings for the collection of unpaid wages; and • Providing penalties. 	https://wyoleg.gov/Legislation/2020/HB0132	<ul style="list-style-type: none"> • S President Signed HEA No.0053
HB0171	Wyoming gaming commission.	Providing penalties	<ul style="list-style-type: none"> • Generally amending statutes concerning pari-mutuel events, gaming and gambling; • Reconstituting the pari-mutuel commission as the Wyoming gaming commission and increasing membership; • Establishing duties for the commission; • Regulating skill based games as specified; 	https://wyoleg.gov/Legislation/2020/HB0171	<ul style="list-style-type: none"> • H Received for Concurrence

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			<ul style="list-style-type: none"> • Authorizing fees and collection and distribution of a portion of wagers; • Authorizing commission employees to be peace officers and providing for enforcement by a district attorney or the attorney general; • Providing applicability; • Requiring rulemaking; and • Making conforming amendments. 		
HB0193	Court automation fees.	Increasing court automation fees	<ul style="list-style-type: none"> • Increasing and conforming specified court automation and filing fees. 	https://wyoleg.gov/Legislation/2020/HB0193	<ul style="list-style-type: none"> • S President Signed HEA No.0040
HB0235	Life insurance benefits-payments and interest.	Life insurance benefits.	<ul style="list-style-type: none"> • Modifying payments of claims and interest requirements on life insurance benefits as specified. 	https://wyoleg.gov/Legislation/2020/HB0235	<ul style="list-style-type: none"> • S President Signed HEA No.0056
SF0008	Missing and murdered persons and other events-cooperation.	Requiring division of victim services to provide training on missing and murdered persons crimes to members of the Judiciary	<ul style="list-style-type: none"> • Specifying duties for the division of criminal investigation, Wyoming office of homeland security, division of victim services, highway patrol and others in reporting, investigation, emergency alert and recovery of missing persons and other offenses; • Requiring state cooperation with federal, tribal and local law enforcement for alert systems and investigation and resolution of criminal activity; and • Requiring reports. 	https://wyoleg.gov/Legislation/2020/SF0008	<ul style="list-style-type: none"> • Assigned Chapter Number 19
SF0011	Consumer protection act amendments.	Temporary restraining order amendments	<ul style="list-style-type: none"> • Amending notice requirements for temporary restraining orders and injunctions in actions relating to consumer protection; • Providing for the issuance of ex parte temporary restraining orders; and 	https://wyoleg.gov/Legislation/2020/SF0011	<ul style="list-style-type: none"> • Assigned Chapter Number 13

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			<ul style="list-style-type: none"> • Amending available remedies. 		
SF0013	Public defender-indigency standards.	Amending indigency standards	<ul style="list-style-type: none"> • Amending indigency qualification procedures and standards for public defender representation; and • Making conforming amendments. 	https://wyoleg.gov/Legislation/2020/SF0013	<ul style="list-style-type: none"> • H Speaker Signed SEA No.0015
SF0014	Probation and parole sanctions-amendments.	Sanction amendments	<ul style="list-style-type: none"> • Clarifying and modifying available administrative sanctions and eligibility for sanctions for probationers and parolees. 	https://wyoleg.gov/Legislation/2020/SF0014	<ul style="list-style-type: none"> • Assigned Chapter Number 18
SF0024	State employees' and officials' group insurance.		<ul style="list-style-type: none"> • Requiring the state employees' and officials' group insurance program to be administered in accordance with insurance laws and regulations as specified; • Modifying a definition regarding coverage; and • Authorizing rulemaking. 	https://wyoleg.gov/Legislation/2020/SF0024	<ul style="list-style-type: none"> • H Speaker Signed SEA No.0009
SF0027	Discovered property-probate procedures.	Probate procedures--real and unknown real property.	<ul style="list-style-type: none"> • Specifying the determination of heirship and distribution of a decedent's known and unknown real property; • Specifying procedures; and making conforming amendments. 	https://wyoleg.gov/Legislation/2020/SF0027	<ul style="list-style-type: none"> • H Speaker Signed SEA No.0026
SF0042	Nicotine products-age verification and shipping.	Requiring age verification and providing for penalties	<ul style="list-style-type: none"> • Requiring age verification for remote sales of nicotine products; • Specifying shipping requirements for nicotine products; • Modifying definitions related to nicotine products; and • Providing penalties. 	https://wyoleg.gov/Legislation/2020/SF0042	<ul style="list-style-type: none"> • H 2nd Reading: Passed
SF0047	Digital assets-statutory amendments.	Clarifying jurisdiction	<ul style="list-style-type: none"> • Clarifying application of digital asset statutes; • Clarifying the duty of digital asset custodians to pay supervisory fees; and • Clarifying the jurisdiction of Wyoming courts 	https://wyoleg.gov/Legislation/2020/SF0047	<ul style="list-style-type: none"> • H Speaker Signed SEA No.0039

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			to hear cases related to digital assets.		
SF0050	Nicotine products-lawful age and penalties.	Lawful age and providing penalties	<ul style="list-style-type: none"> • Prohibiting the sale of furnishing of nicotine products to persons under twenty-one years of age as specified; • Prohibiting the possession and use of nicotine products by persons under twenty-one years of age as specified; and • Providing penalties. 	https://wyoleg.gov/Legislation/2020/SF0050	<ul style="list-style-type: none"> • H Appointed JCC01 Members
SF0055	Hemp production-fees.	Requiring fees	<ul style="list-style-type: none"> • Requiring fees for compliance inspections and disposal verification; • Authorizing disposal verification; • Requiring rulemaking; and • Correcting references. 	https://wyoleg.gov/Legislation/2020/SF0055	<ul style="list-style-type: none"> • H Appointed JCC01 Members
SF0120	Office of guardian ad litem-2.	Creating office of GAL	<ul style="list-style-type: none"> • Creating the office of guardian ad litem; • Modifying administration of guardian ad litem program; • Repealing provisions related to office of the public defender oversight of the program; • Making conforming amendments; • Providing for continuation of contracts; • Providing for rulemaking; and • Reappropriating funds. 	https://wyoleg.gov/Legislation/2020/SF0120	<ul style="list-style-type: none"> • H Speaker Signed SEA No.0041

PROPOSED CHANGES

RULES OF CRIMINAL PROCEDURE, WYOMING COURT RULES (Page 435)

RULE 4. WARRANT OR SUMMONS UPON INFORMATION

- (a) Issuance – If it appears from a verified information, or from an affidavit or affidavits filed with the information, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a summons shall issue requiring the defendant to appear and answer to the information. Upon request of the attorney for the state the court ~~shall~~ **MAY** issue a warrant, rather than a summons.

(NOTE: This change would leave discretionary the issuance of a felony or misdemeanor warrant with the judge.)

However, the concern of the Circuit Court Judges is particularly with misdemeanor charges.

The following would address only that concern:

RULE 4. WARRANT OR SUMMONS UPON INFORMATION

- (a) Issuance – If it appears from a verified information, or from an affidavit or affidavits filed with the information, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a summons shall issue requiring the defendant to appear and answer to the information. Upon request of the attorney for the state the court shall issue a warrant, rather than a summons, **for any information containing at least one felony offense, and may for good cause shown by the state, issue a warrant for a misdemeanor offense.**

(NOTE: Good cause may partially be found in §7-2-102(b)(iii) that specifies when an officer may arrest. i.e. When a suspect will not be apprehended, may cause injury to self or others or cause damage to property, or may destroy or conceal evidence of the commission of a misdemeanor. The county attorney is free to express other reasons, such as, warrants already exist for the defendant or there is no known address for the defendant.)

Wyoming Access to Justice Commission

2020 Report to the Wyoming Supreme Court January 30, 2020

Members of the Commission

Justice Lynne Boomgaarden, Wyoming Supreme Court
Commission Chair

Timothy Day	District Court Judge
Shelley Cundiff/Paul Phillips	Circuit Court Judge
Kelly Neville	Wyoming State Bar
Stuart Day	Member At-Large
Walter Eggers	Member At-Large
Daniel Fleck	Member At-Large
Lauren McLane	UW College of Law
Janet Montgomery	Pres. Clerk of District Courts Assoc.
Ashley Ries	Pres. Wyoming Assoc. of Circuit Court Clerks
Tara Nethercott/Dan Kirkbride	Wyoming State Legislature
Mackenzie Williams	Attorney General's Office
Kayla Spencer	Member At-Large
Farrah Spencer	Member At-Large
Kristen Schlattmann	Member At-Large
Anthony Ross	Member At-Large
Mary Throne	Member At-Large
Dona Playton	Member At-Large
Devon O'Connell	Member At-Large
Ronda Munger	Deputy Court Administrator, Wyoming Supreme Court
Bradley McKim	Member At-Large
Richard Lavery	District Court Judge
Tori Kricken	District Court Judge
Jessica Keith	Member At-Large

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TO: Chief Justice Michael K. Davis, Wyoming Supreme Court

Governor Mark Gordon, State of Wyoming

President of the Wyoming Senate and Speaker of the House of Representatives

SUMMARY

The Wyoming Access to Justice Commission was in its formative stages when it issued an ambitious five-year plan in November 2014 (the “Plan”). In pursuing the Plan, the Commission achieved two significant goals:

1. A structure for the delivery of civil legal services for the indigent was put in place, primarily under the auspices of Equal Justice Wyoming.
2. Concrete programs were established that assisted or improved the delivery of civil legal services to the indigent in Wyoming.

This simple statement of the work initiated and executed by the Commission under the Plan belies the effort and progress that was accomplished. This report highlights those activities.

Looking to the future, the Commission will focus on streamlining its own structure and narrowing its remit to that of an advisory body that assists with fundraising and discrete tasks, and that provides active but limited oversight. To this end, the membership of the Commission will be reduced by approximately two-thirds. The Commission will continue to emphasize the need for pro bono participation and prompt action in areas such as elder care, forms revisions, creative approaches to efficiently handling family law matters, and public education regarding available services.

This revision to the Commission’s make-up and duties was made possible by the delivery of the work contemplated in the Plan. It took a dedicated group of volunteers, together with the organization of Equal Justice Wyoming and its constituent providers, to deliver that work.

I. Review of 2015-2020 Strategic Plan Commitments & Accomplishments

In a report dated November 20, 2014 the Commission established a five-year plan (“the Plan”) for organizing the delivery of civil legal services to low and moderate income individuals in the State of Wyoming. A link to access the Plan is included in the References on page 18.

The Plan was the organizationally logical “next step” for the Commission following:

- The December 2008 Wyoming Supreme Court order (“the Order”) creating the Commission;
- The 2009 White Paper stating priorities for the Commission; and
- The 2010 Wyoming Civil Legal Services Act (Wyo. Stat. Ann. § 5-2-121, *et. seq.*) (the “Act”) establishing a funding mechanism and calling for creation of an operating entity and program.

The Plan established three broad initiatives on which to focus the Commission’s efforts.

- Initiative #1: Continued Support for Legal Services in Wyoming.
- Initiative #2: Communications and Public Awareness Inside and Outside Wyoming’s Legal Community.
- Initiative #3: Inspiring *Pro Bono* Service by Wyoming Attorneys.

Within these three initiatives, several specific actions were proposed for implementation. This section will summarize progress against the Plan’s stated initiatives and proposed actions.

Initiative #1: Continued Support for Legal Services in Wyoming

Perhaps the most important activity of the Commission over the last five years is its support for and guidance to Equal Justice Wyoming (“EJW”—originally named the Wyoming Center for Legal Aid) as EJW has matured in fulfilling its mission of helping income-eligible Wyoming citizens connect with legal resources and find ways to address their legal needs. EJW was created pursuant to Wyo. Stat. Ann. § 5-2-122 and has established working relationships and systems with Legal Service Providers including Legal Aid of Wyoming, University of Wyoming College of Law Clinics, the Wyoming Coalition

Against Domestic Violence and Sexual Assault, the Wyoming Children’s Law Center, Laramie County Community Partnership Medical-Legal Partnership, and the Teton County Access to Justice Center. Importantly, it is now well-settled that EJW is the clearinghouse for coordinating a statewide network of civil legal services programs and resources for low and moderate income citizens of Wyoming.

A link to access EJW’s most recent “Annual Report to the Wyoming Supreme Court” is in the References. The myriad programs and activities of EJW are detailed more fully in that report. Many of those programs and activities were identified in the Plan and have been developed with the advice, input or other assistance of the Commission. Examples are discussed briefly below.

Raising Public Awareness of the Need for Legal Services

Working with EJW, the Commission developed a “presentation in a box” addressing both the need for legal services among low to moderate income citizens in Wyoming and the ongoing gap that exists in meeting that need. Over the last few years, both members of EJW and the Commission have given the presentation to groups inside and outside the legal community. Additionally, EJW is a regular participant in the State Bar meeting where civil legal service needs are discussed.

Legal Aid of Wyoming and the Equal Justice Wyoming Foundation, with support from the Commission and other entities, are preparing a “Statewide Legal Needs Assessment”. The assessment has highlighted that the need for legal services among the indigent remains high. Of slight surprise has been the fact that, over the course of the Plan, both EJW and the Commission have become acutely aware that, even more than their lack of knowledge that there are resources to help with their legal issues, low and moderate income citizens often are unaware that the problem they are confronting has legal implications in the first instance. Thus, while EJW and the Commission have made good progress in this area, raising public awareness of the need for legal services will remain a necessary priority for the foreseeable future.

Alternative Methods for Delivery of Legal Services

The Plan recognized that simply hiring more lawyers was never going to be a practical solution to meeting the need for civil legal services. The Commission has worked with EJW to foster creative mechanisms for delivering legal assistance. A few examples are:

- The Volunteer Reference Attorney program has been instituted in six counties with plans to expand to other counties in the state. In this program Volunteer Reference Attorneys provide legal information, explain court procedures, help self-represented litigants complete necessary court forms and navigate the court system.

Laramie, Natrona, Sweetwater, Albany, Carbon and Sheridan counties currently participate in the program. In most of these counties a Volunteer Reference Attorney is available at the courthouse on the first and third Thursday of each month from 2 to 4 p.m.

- A family law mediation program is being piloted in Cheyenne. A recurring theme that the Commission has encountered is that family law cases tend to have a disproportionate number of self-represented litigants and, consequently, a disproportionate impact on court dockets. The mediation pilot is one of several concepts being tested to address this issue.
- Wyoming.freelegalanswers.org is a secure online “virtual legal advice clinic” designed to help reach some of the more remote parts of the State where in-person assistance is less readily available. The website screens users to ensure financial eligibility. Qualifying users are then able to ask legal questions which are answered by Wyoming licensed attorneys. EJW manages the website in partnership with the American Bar Association.

Obviously, given scarcity of resources, this will continue to be a high priority for EJW and the Commission.

Development of Resources for Self-Represented Litigants

As mentioned above, self-represented or *pro se* litigants can be a vexing problem for the efficient functioning of the courts. Inevitably, our judges will often feel compelled to try to assist *pro se* litigants with navigating court procedures and filings. Court dockets can lag behind and justice for all litigants can be delayed despite the good intentions of all involved.

One of the key ways that EJW and the Wyoming Judicial Branch has attempted to help deal with this issue is through the development of forms to aid *pro se* litigants. The forms are available online and often batched into packets for particular types of cases. An online classroom to help self-represented litigants navigate divorce cases has also been made available by EJW.

Feedback from the courts on these efforts has been mixed. Streamlining the language of the forms and their online content in order to make them more “user-friendly” is ongoing work. Continued diligence in this area and close coordination with the judges, clerks and Bar will be fundamental to continuing to make progress on solving this issue.

Addressing Barriers to Access to Justice

Barriers to the justice system are not exclusive to low and moderate income citizens. Nonetheless, they typically are greater for those who lack the necessary resources to overcome or advocate against barriers. The Commission and EJW have identified such barriers and, in appropriate cases, have worked with the Legislature and the courts to craft remedies. For example, in tenant eviction cases the requirement of filing a written answer in order to present a defense has been dispensed with so that people under threat of eviction may still appear and advocate on their behalf. Similarly, a requirement that a *petitioner* seeking a divorce reside in Wyoming for the 60 days prior to filing a divorce petition was leaving individuals restricted in their ability to seek a divorce. This was particularly problematic for domestic violence victims who were forced to flee the state for their personal safety. Now a divorce may be filed if *either party* has been a resident of Wyoming for the past 60 days, eliminating the barrier to divorce for many victims fleeing abuse.

Continued vigilance and collaboration on the part of EJW, the Commission, the Courts and the Legislature will be important to identifying and addressing barriers to obtaining justice. The well-established infrastructure that is now in place should aid greatly in this ongoing work.

Identification of Underserved Segments of the Wyoming Population

As alluded to above in the discussion on raising awareness, one of the greater challenges the Commission, EJW, and other entities have faced is making the public and potential legal aid recipients aware of the resources that are available. Legal Aid of Wyoming and the Equal Justice Wyoming Foundation are working with experts to conduct a statewide legal needs assessment. We anticipate that assessment will be of great assistance in defining and further addressing this issue.

Strengthening Ties with Civil Legal Service Providers

By their very nature, many of the activities discussed in this section will endure beyond the Plan which, of course, was the intent of the Plan. One of the main reasons that these activities and Initiative #1 from the Plan have demonstrated progress and will continue to be pursued diligently is, again, because a collaborative legal services infrastructure now exists. One of the principle components of this infrastructure is the importance of EJW in coordinating and tracking resources. This is accomplished in large part through well-established working relationships between EJW and the Legal Service providers (Legal Aid of Wyoming, the University of Wyoming Law Clinics, the Wyoming Coalition Against Domestic Violence and Sexual Assault, Wyoming Children's Law Center, Laramie County Community Partnership Medical-Legal Partnership, and the Teton County Access to Justice Center). When the Plan was issued these relationships were in their infancy with overlapping (or occasionally conflicting) priorities and operations. Increased

efficiency is an ongoing goal for all organizations but the State should be proud of the relative efficacy of the system now in place for delivery of civil legal services.

Initiative #2: Communications and Public Awareness Inside and Outside Wyoming's Legal Community

As described under Initiative #1 above, the Commission has worked with EJW to raise awareness of the need for civil legal service for low and moderate income citizens. Much of that discussion applies to Initiative #2. There has been extensive outreach to the Wyoming legal community. Examples are:

- Regular features in the Wyoming Bar Journal including an issue devoted to access to justice in the last year;
- Annual meetings between EJW and the State Bar Officers and Commissioners;
- Presentations to local Bar associations;
- Regular presentations to students at the college of law as well as through the Legal Clinics;
- Regular presentations to the judges and clerks of court. Indeed, the clerks' offices tend to be the Wyoming legal system's first point of interface with the public and one of the key ways that the work of the Commission and EJW gets communicated to those in need of legal services.

The net result of these efforts has been an embedded recognition within Wyoming's legal community of the existence of a civil legal services infrastructure. This work will continue in order to build on and maintain the gains achieved to date.

As already discussed, engaging with the public outside of the legal community has been challenging and progress more incremental. Nonetheless, work pursuant to Initiative #2 has largely been institutionalized with the areas of greatest need being clearly visible to the Commission and EJW.

Initiative #3: Inspiring Pro Bono Service by Wyoming Attorneys

The third initiative from the Plan has proven to be the most challenging for the Commission and EJW. On the one hand, the Wyoming Bar is to be commended for its rates of *pro bono* volunteerism relative to many other states. In an article published on April 26, 2018, the

ABA Journal recognized that Wyoming lawyers ranked third out of the participating states for the highest pro bono average hours by attorneys. See:

http://www.abajournal.com/news/article/which_lawyers_spend_the_most_time_on_pro_bono_survey_finds_4_out_of_5_offer.

The full report can be found at:

https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/lspb_supporting_justice_iv_final.pdf.

On the other hand, Wyoming's rural nature often makes getting *pro bono* volunteers "at the right place, at the right time" difficult. Particularly in the less populated judicial districts with few practicing attorneys, providing representation or even assistance to *pro se* litigants can be problematic. To contrast, many states with major metropolitan areas host national law firms that typically have institutionalized *pro bono* service both as a development tool and as part of their business model. This is a dynamic that is more amenable to legal practices of scale rather than the local and rural practices that predominate in Wyoming.

Notwithstanding these realities, the Commission and EJW have been in action. EJW employs a full-time *pro bono* coordinator and has developed training and materials promoting limited scope representation as well as online aids for attorneys to use when providing limited scope services. Additionally, EJW communicates prolifically within the Bar about the need for and benefits of *pro bono* service. Despite these considerable efforts, EJW has struggled to achieve consistent *pro bono* participation. Many judges have noted that greater *pro bono* assistance, particularly in domestic cases, would aid the handling of their dockets greatly.

In summary, there has been a lot of activity in support of greater *pro bono* participation but with mixed results at best. This will be a primary area of focus for the Commission and EJW going forward.

A Note on Funding

Inevitably, for activities such as those contemplated and supported by the Commission, funding is a critical consideration. Since the passage of the Wyoming Civil Legal Services Act, the Commission and EJW have been prudent stewards of the resources granted by the State of Wyoming, the Federal Government and fees collected pursuant to the Act. What follows is a brief summary of the current state of legal services funding in Wyoming.

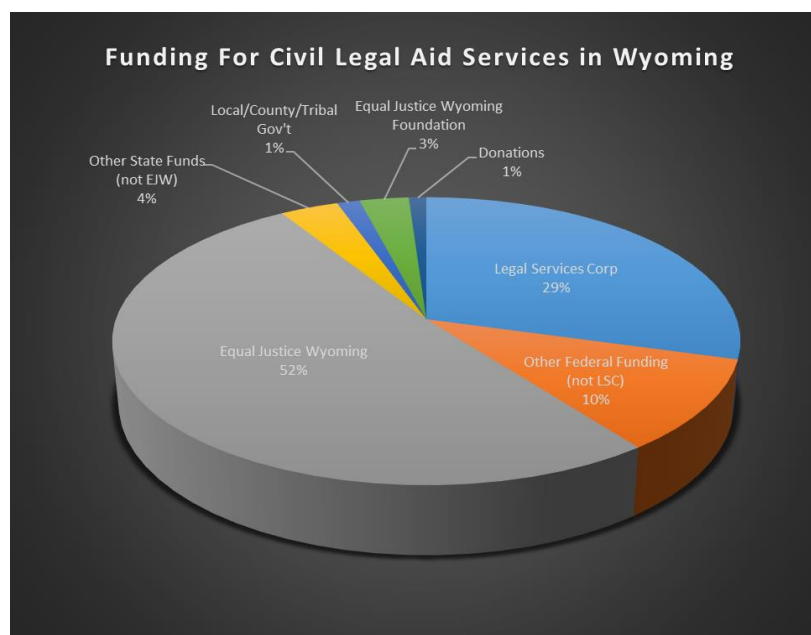
Preliminarily it should be noted that states across the country have established widely varying approaches to the delivery of civil legal services. In all states, the federal funding through the Legal Services Corporation (LSC) is used to provide services. In FY 2017,

LSC awarded grants and entered into contracts for a total of \$388,015,681 in funding. In 2015, for example, LSC funded 812 legal services offices providing direct legal services throughout the United States and its territories. Many of these federally-funded programs supplement their budgets through state, private, and other funding sources. In addition to legal services offices with full-time attorneys providing direct legal services, there are many part-time and *pro bono* attorneys providing legal services across the country. Other entities, such as law school clinical programs, also provide legal services. For more information regarding efforts in other states and how Wyoming compares, see the *American Bar Foundation Report of the Civil Justice Infrastructure Report at http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf*.

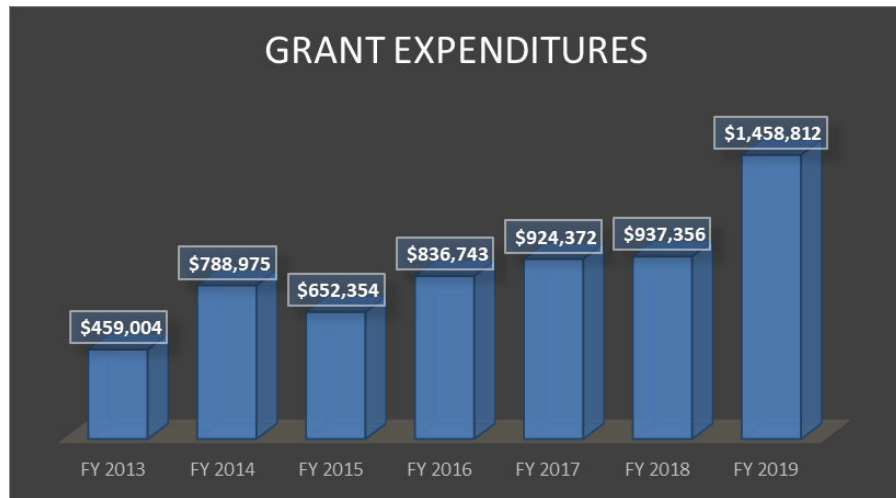
As stated earlier, in 2010, the Wyoming Legislature passed House Bill 61, establishing the Civil Legal Services Account and providing Wyoming's first state funding for legal services. Wyo. Stat. Ann. §§ 5-2-121 *et seq.* The financial status of legal services in the state has improved over the past nine years. However, there is still a significant difference between the need for legal services funding and available resources. Over the past two years, the balance of the Civil Legal Services Account has decreased. The Account is funded through a state court filing fee surcharge and court assessments and there has been a noticeable decrease in the revenue generated from these fees.

The Commission, which proposed and supported the 2010 legislation, is working with EJW, the EJW Foundation, and other entities to preserve funding for legal services. These efforts include promoting private contributions, working to increase the Interest on Lawyer Trust Accounts (IOLTA) funding, and searching and applying for grants.

Sources of Legal Services Funding in Wyoming (2019)



Growth of EJW Grants—2013-2019



EJW 2019 Snapshot

State Civil Legal Services Fund Revenue	\$1,049,830
Other funds administered and granted by EJW	For example: EJW received federal Victims of Crime Act (VOCA) funds of \$300,000 and \$100,000 of State Surcharge Funds, which were granted to provide civil legal services to victims of crime, as well as \$22,800 of Pro Hac Vice Fees used for general grants.
Grants	\$1,458,812
Number of Persons Receiving Legal Services & Self-Help Assistance	4,979
Salaries & Benefits	\$332,680
Office Expenses & Travel	\$31,620
Telecommunications Expenses	\$3,493

II. Challenges, Opportunities and the Commission Going Forward

Organization of and Membership on the Commission

As will be discussed below, many of the priorities for the Commission and EJW remain the same or similar to those outlined in the Plan five years ago as those priorities will inevitably be critical components of a civil legal services effort. Before addressing those priorities, however, it is worth revisiting the infrastructure that has been fostered by the Supreme Court as well as the Legislature.

A link to the Commission's March 24, 2015 bylaws is included in the References. At the time the bylaws were adopted, and the Plan was being drafted, the task before the Commission was daunting. Chief among the goals to be accomplished was the continued conception and maintenance of EJW. As this was being accomplished, the Commission was also pursuing the goals outlined in the Plan. Much of this work was being performed by "working groups" formed from Commission members. These working groups became standing committees. The current working groups are:

Communication—fostering knowledge of EJW's services and available resources

Delivery of Legal Services—conceiving and implementing alternatives to the traditional delivery of legal services by EJW, the Bar and the courts

Law Improvement—advocating changes to the law or court rules to improve access

Tribal—to coordinate with the tribal courts regarding initiatives and resources

Funding

During the ensuing five years, as described above, EJW became a recognized cornerstone in Wyoming for the delivery of legal services. In addition to facilitating the institutionalization of EJW, the working groups have also delivered many of the goals set out in the Plan. In order to do this work, the membership of the Commission increased substantially as allowed by the Commission bylaws. Membership on the Commission stood at 29 members.

During the last few years it has become clear that, while the essential work of delivering legal services to low income individuals has not abated, the working groups' remit has largely been subsumed by EJW. This result is partly design, partly simple organizational evolution. The residual working group infrastructure, however, has begun to hamper

efficiency as work conceived in the working groups often ends up being performed by EJW staff rather than the volunteer members of the working groups. This work by EJW is often duplicative of or in addition to efforts that EJW is already undertaking.

In order to support EJW's work and to assure that valuable resources are not diverted from the central objective of delivery of civil legal services, the Commission proposes to eliminate the working groups, with one exception. In the future, the Commission will have four primary functions:

1. Acting as an advisory body to the Supreme Court in support of the Court meeting its statutory obligations under the Act. This includes assisting the Court in its role as liaison with the Legislature, Agencies, Bar, etc.
2. Acquiring and maintaining funding and other resources in support of EJW's efforts consistent with the Act and the Order. Because of this, the Funding Working Group will remain a standing working group within the Commission.
3. Exercising limited, focused independent oversight over EJW as contemplated by the Act and the Order.
4. Serving as a resource to EJW for specific tasks where the EJW Board of Commissioners determines the Commission can be most helpful. This can include simple requests for input from EJW to the Commission.

Because of the more limited scope of the Commission, its membership will necessarily recede to a number more compatible with its duties. As the Commission takes on special projects on its own prerogative or, more often, at the request of EJW, it will work through ad hoc committees staffed from within the Commission and with the assistance of individuals that the Commission believes have expertise peculiar to the task at hand. Such individuals would not, however, be added to the roster of Commission membership.

Work that has been commenced by a working group that can be completed in the next six months will be done. Otherwise, all residual tasks remaining in the working groups will be transitioned to EJW. As members of the Commission's terms expire over the next two years, they will not be replaced with the exception of the following individuals. This will constitute the Commission membership after December 31, 2021:

- The Chief Justice of the Wyoming Supreme Court or his or her designee. This person will chair the Commission (1 member);

- A State District Court Judge recommended by the District Court Judges' Conference (1 Member);
- A State Circuit Court Judge recommended by the Circuit Court Judges' Conference (1 Member);
- Two members of the Wyoming State Bar recommended by the President of the Wyoming State Bar (2 Members);
- A representative of the University of Wyoming College of Law recommended by the Dean of the College of Law (1 Member);
- A District Court Clerk designated by the President of the Clerk of District Court's Association and a Circuit Court Clerk recommended by the President of the Wyoming Association of Circuit Court Clerks (2 Members);
- Two members of the Wyoming Legislature recommended by the Speaker of the House and the President of the Senate, respectively (2 Members);
- The Attorney General of Wyoming or his or her designee;
- A Member at Large may be appointed at the discretion of the chair of the Commission if particular expertise is deemed necessary and circumstances warrant expansion of the Commission rather than an ad hoc request for assistance.

In addition to the eleven to twelve-member Commission outlined above, the Executive Director of EJW will be a standing invitee and participant in Commission meetings and communications. The Executive Director of EJW will serve as the liaison between the Commission and EJW's legal service provider organizations. The Executive Director will also have the discretion to invite a representative or representatives from legal service provider organizations to any Commission meeting where such an invitation would aid efficiency and communication of information.

The Executive Director of the Wyoming State Bar and the Children's Justice Project will also be standing invitees and participants in Commission meetings.

Wyoming Supreme Court recently replaced the Commission bylaws and rules to effect these changes. A link to the amended bylaws is included in the References.

Again, the Commission emphasizes that the working groups were necessary to embed many of the principles in the Plan and to allow EJW time and space to become a functioning entity. With EJW established as the focal point of the civil legal services effort and responsible for execution of the priorities established by the Act, the Order and the Commission itself, it is time for the Commission to assume an oversight role that supports and guides EJW and that is less involved in direct execution of policy.

Priorities for the Commission

As alluded to above, the priorities for the Commission and EJW are largely the same and have changed little since the issuance of the Plan. While substantial progress has been made, by their nature, most of the priorities listed below will almost certainly always be critical in a successful program for assuring that low income individuals receive the legal services they need.

Pro Bono

As discussed earlier, based on feedback from the courts, clients, EJW and others, *pro bono* participation is critical to the Commission's mandate. While the Wyoming Bar's response has been admirable, more needs to be done. EJW has *pro bono* participation as a focus area and it is the Commission's intention to support EJW's efforts through the influence of its judicial members and the insights of its members from the Bar and the clerks' associations.

Elder Care

In January 2017 a task force charged with investigating the issues associated with a growing elderly population in Wyoming issued its report and recommendations. A link to the report is included in the References. While progress has been made, the Commission is of the view that its mandate includes the ability to foresee where issues could potentially become problematic for the delivery of civil legal services. For this reason, the Commission will emphasize a focus on the issues raised by the Elder task force and coordinate with EJW on steps appropriate to the Commission and EJW's remit.

Residual Working Group Initiatives

As described above, the working groups will be completing their work or transitioning what remains to be done to EJW. The Commission views much of this work as valuable and will be assuring its delivery by the working groups or EJW. Examples include:

- Updating of the currently available forms to use simpler language and to be more "user friendly."

- Continued study and piloting of creative approaches to shepherding family law cases through the courts. As described, these cases tend to feature more *pro se* litigants and constitute a substantial drain on judicial resources.
- Continued efforts to highlight the availability of resources for low income individuals in order to assist that population with both recognizing when they are in need of legal assistance as well as where to obtain legal services.
- Exploration of alternative and creative ways to deliver legal services beyond those presently contemplated and managed by EJW. Many of the current delivery organizations have been extant for some time so it will be important for the Commission and EJW to continually test their model.

A Word About the Tribal Courts

While intercession in tribal matters is not within the direct remit of the Commission, the Commission has attempted to coordinate with the tribal courts in Wyoming to share knowledge and, where allowed, resources. These efforts have, admittedly, met with mixed results despite good faith efforts by Commission members and the tribal courts themselves. While the Commission will disband the current Tribal Court Working Group, it will not set aside its efforts to work with the tribal courts on a meaningful program as those courts face many of the same challenges that the Commission and EJW face. With many of the civil legal services priorities contemplated by the Plan delivered or embedded in the State's legal services architecture, the time is right for a fresh look at tribal court relationships and, where desired and feasible, assistance.

CONCLUSION

This report has described the evolution of the Wyoming Access to Justice Commission under its 2014 five-year plan. Successful execution of the Plan has allowed the State of Wyoming to accomplish the primary goal that led to the creation of the Commission in the first instance, namely, increasing the availability of civil legal resources for Wyoming's indigent population. In order to efficiently build on the substantial progress achieved pursuant to the Plan, the Commission will optimize its membership and responsibilities. This will allow the Commission to focus on those areas that have proved critical to delivery of civil legal services.

REFERENCES

A. November 20, 2014 Report to the Wyoming Supreme Court & Five-Year Strategic Plan 2015-2020

http://www.courts.state.wy.us/wp-content/uploads/2017/03/Report_Strategic_Plan.pdf

B. July 2019 Equal Justice Wyoming's Annual Report to the Wyoming Supreme Court

http://www.courts.state.wy.us/wp-content/uploads/2019/09/EJW_Annual.Report_2019_Final.pdf

C. March 24, 2015 Bylaws and Rules of the Wyoming Access to Justice Commission

http://www.courts.state.wy.us/wp-content/uploads/2017/03/bylaws_2403201500.pdf

D. January 28, 2020 Bylaws and Rules of the Wyoming Access to Justice Commission

<http://www.courts.state.wy.us/wp-content/uploads/2020/01/Order-Repealing-Bylaws-and-Rules-of-AJC-effective-March-1-2020.pdf>

E. January 20, 2017 Elder and Vulnerable Adult Task Force Report to Governor

<http://www.courts.state.wy.us/wp-content/uploads/2017/03/20170120ReportToGovernor.pdf>

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2019

***In the Matter of Repeal of the Existing)
Bylaws and Rules of the Wyoming Access)
to Justice Commission and the Adoption)
of the Bylaws and Rules of the Wyoming)
Access to Justice Commission)***

IN THE SUPREME COURT
STATE OF WYOMING
FILED

JAN 28 2020

PATRICIA BENNETT, CLERK
Shawna J. [Signature]
by DEPUTY

**ORDER REPEALING THE EXISTING BYLAWS AND RULES OF THE
WYOMING ACCESS TO JUSTICE COMMISSION
AND
ORDER ADOPTING BYLAWS AND RULES OF THE WYOMING
ACCESS TO JUSTICE COMMISSION**

This matter came before the Court upon the recommendation of the Wyoming Access to Justice Commission that this Court revise the Bylaws and Rules of the Wyoming Access to Justice Commission. On March 24, 2015, this Court entered an order adopting revised Bylaws and Rules of the Wyoming Access to Justice Commission. The Commission now recommends revisions to those Bylaws and Rules. The Court, having carefully reviewed the revised Bylaws and Rules, finds the revised Bylaws and Rules should be adopted. It is, therefore,

ORDERED that effective March 1, 2020, the existing Bylaws and Rules of the Wyoming Access to Justice Commission shall be repealed; and it is further

ORDERED that the Bylaws and Rules of the Wyoming Access to Justice Commission, attached hereto, be, and hereby are, adopted by the Court to be effective March 1, 2020; and it is further

ORDERED that this order and the attached Bylaws and Rules shall be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The Bylaws and Rules of the Wyoming Access to Justice Commission shall also be recorded in the journal of this Court.

DATED this 28th day of January, 2020.

BY THE COURT:

Michael K. Davis
MICHAEL K. DAVIS
Chief Justice

BYLAWS AND RULES OF THE WYOMING ACCESS TO JUSTICE COMMISSION

ARTICLE I. MISSION

The mission of the Wyoming Access to Justice Commission is to promote fair and equal access to civil justice in Wyoming.

ARTICLE II. MEMBERS

Section 1. Number and Appointment. The Commission shall have eleven (11) members as appointed by the Wyoming Supreme Court, to reflect the composition set forth in Article II, Section 2. New and renewing members shall be appointed according to Article II, Section 2.

Section 2. Composition and Appointment. The Commission shall be composed of the following members:

1. The Chief Justice of the Wyoming Supreme Court, or his or her designee, who shall be a member of the Wyoming Supreme Court;
2. One (1) state District Court Judge recommended by the District Court Judges' Conference;
3. One (1) state Circuit Court Judge recommended by the Circuit Court Judges' Conference;
4. Two (2) members of the Wyoming State Bar recommended by the President of the Wyoming State Bar;
5. One (1) representative of the University of Wyoming College of Law recommended by the Dean of the College of Law;
6. One (1) District Court Clerk recommended by the President of the Clerk of District Courts' Association;
7. One (1) Circuit Court Clerk recommended by the President of the Wyoming Association of Circuit Court Clerks;
8. One (1) state senator and one (1) state representative from the

Wyoming Legislature recommended, respectively, by the President of the Senate and the Speaker of the House;

9. The Wyoming Attorney General or his or her designee; and,
10. One (1) Member at Large, selected by the Commission Chair as needed based on particular expertise necessary to accomplish the Commission's mission.

On or before October 31 each year the Commission Chair shall assemble and provide a list to the Chief Justice of all the members to be appointed or reappointed. An Order of the Wyoming Supreme Court making such appointments and reappointments, and listing all Commission members shall be published by January 1 each year.

Section 3. Qualifications. Members of the Commission shall be members of the Wyoming State Bar or residents of the State of Wyoming with a demonstrated interest in access to justice.

Section 4. Terms of Office. Terms of office shall be three (3) years beginning the first day of each calendar year. A member may serve successive terms, with the approval of any party authorized to designate or recommend such member. Any existing member whose position on the Commission was eliminated by amendment of Article II, Section 2 may serve the remainder of his or her existing term.

Section 5. Resignation. Any member may resign by filing a written notice of resignation with the Commission which shall be effective on the date of filing unless an effective date subsequent to the date of filing is included in such notice. In the event a member resigns, the Commission Chair shall timely recommend to the Chief Justice a new appointment for the unexpired term of that member's position. With the Chief Justice's approval, the Order Appointing and/or Reappointing Member(s) to the Wyoming Access to Justice Commission will be updated accordingly.

Section 6. Participation. The Commission expects that all members regularly attend, in person or otherwise, all meetings of the Commission. In the event a member fails to attend fifty percent (50%) of the meetings of the Commission during any calendar year or otherwise demonstrates the inability to effectively serve as a member of the Commission, the Chair shall contact the member and discuss and determine if continued membership is

appropriate. Any member who ceases to be a member of the Wyoming State Bar or a resident of Wyoming shall be removed.

ARTICLE III. MEETINGS

Section 1. Annual Meeting. The first regular meeting each calendar year shall be the "Annual Meeting." In addition to conducting the regular business of the Commission at the Annual Meeting, the Commission shall elect officers and establish the number and dates for meetings.

Section 2. Meetings. The Commission shall hold meetings at such dates, times and locations as the Commission shall determine at the Annual Meeting. Additional meetings of the Commission may be called by or at the request of the Chair or of any three (3) or more Commission members. The person calling any meeting shall give no less than five (5) days' prior notice stating the purpose of the meeting by personal delivery, first class mail, electronic transmission or facsimile to the address of each member as shown in the records of the Commission.

Section 3. Action and Quorum. The Commission may act through a majority of a quorum of its members at a meeting. A tie vote means the matter voted on has failed adoption. A motion to reconsider can only be made by a member who voted on the prevailing side of an issue. A quorum shall consist of a majority of the members of the Commission in office at the date of such meeting. Once a quorum has been established, that quorum shall carry throughout the duration of the meeting. If a quorum is not present at a meeting, the majority of the members at such meeting may adjourn the meeting to a specified date, time and place as to which written notice shall be given in accordance with Article III, Section 2.

Section 4. Attendance by Telephone or Video Conference. Members of the Commission who attend meetings by telephone or video conference shall be counted in the quorum determination.

Section 5. Compensation. Members of the Commission shall serve without compensation.

Section 6. Action by Unanimous Consent. Any action that may be taken at a meeting of members may be taken without a meeting through consent in writing (including by email) describing the action and executed by all members entitled to vote.

Section 7. Waiver of Notice. Any member may waive notice of any meeting before, at, or after the meeting, and the waiver shall be deemed equivalent to the member receiving notice.

Section 8. Standing Invitees. The Executive Director of Equal Justice Wyoming, the Executive Director of the Wyoming State Bar, and the Director of the Children's Justice Project shall be standing invitees and participants in Commission meetings.

ARTICLE IV. OFFICERS

Section 1. Officers. The officers of the Commission shall be the Chair and the Vice-Chair. The Commission may establish other offices from time to time. The Chair and the Vice-Chair shall be Commission members.

Section 2. Selection and Length of Term. The Chair of the Commission shall be the Chief Justice of the Wyoming Supreme Court or his or her designee appointed under Article II, Section 2(1). The Vice-Chair and any other officers the Commission deems necessary shall be elected by the Commission. Terms of office shall be three (3) years, and terms shall commence on January 1 of the year of appointment or election and shall end on December 31 of the year in which the term expires, or until successors are elected and duly qualified.

Section 3. Resignation, Removal and Replacement. Any officer may resign office by filing a written notice of resignation with the Commission. The resignation shall be effective when filed unless a later effective date is included in the notice. Any officer may be removed by a two-thirds (2/3) majority of the Commission members upon written vote. Any vacancy caused by the death, resignation, or removal of an officer may be filled by a majority of Commission members at any meeting.

Section 4. Chair. The Chair shall be the principal officer and spokesperson of the Commission, shall preside at all meetings of the Commission, and shall carry out other duties as authorized or assigned by the Commission.

Section 5. Vice-Chair. The Vice-Chair shall perform the duties and exercise the powers of the Chair when the Chair is absent or unable to act and shall carry out other duties as authorized or assigned by the Commission.

Section 6. Executive Secretary. The Chair's Judicial Assistant or the State Court Administrator shall be the executive secretary for the Commission. It shall be the duty of the executive secretary to prepare and keep the minutes of all meetings.

ARTICLE V. DISSOLUTION


The Commission's existence may be terminated at any time by a joint notice in writing from the Wyoming State Bar Association and the Wyoming Supreme Court. The notice may, but is not required to, follow a recommendation by the Commission that it be dissolved or reconstituted in a different form.

ARTICLE VI. AMENDMENT

These Bylaws may be amended or repealed by the Wyoming Supreme Court upon the recommendation of or after consultation with the Commission.

Dated this 28th day of January, 2020.

ACCESS TO JUSTICE COMMISSION

By: 
Justice Lynne Boomgaarden, Chair