

# Board of Judicial Policy and Administration

Supreme Court Building

Cheyenne, Wyoming

August 15, 2016

## MINUTES

### Present In Person:

Chief Justice Jim Burke, Justice Mike Davis, Justice Kate Fox, Justice Keith Kautz, Lily Sharpe, Angie Dorsch, Carol Thompson, Julie Goyen, Kristi Racines, Eydie Trautwein and Becky Craig

### Present by Video Conference or Phone:

Judge John Perry, Judge John Fenn, Judge Steven Cranfill, Judge Bob Castor, Judge Wes Roberts, and Judge Curt Haws participated by phone or video

| <b>Agenda Items</b>  | <b>Summary of Discussion</b>   |
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| <b>Welcome</b>   | Chief Justice Burke called the meeting to order at 9:00 a.m.   |
| <b>Courtroom Technology Equipment Committee</b><br><br>Members: Chief Justice Burke, Justice Davis (Chair), Judge Tyler, Judge Sharpe, Judge Christensen, and Judge Prokos | <p>Justice Davis reported that the committee is identifying the newest equipment available for a high-tech courtroom and researching what other states have encountered when updating their systems. Justice Davis advised that Lily Sharpe researched the legal issues that could arise from use of technology in courtrooms—primarily video usage. Lily commented that after reviewing various materials, she learned that it's advisable to obtain a waiver from the defendant if he/she is appearing by video rather than in person. She also stressed the importance of ensuring that attorneys are adequately trained to use the equipment. Justice Davis advised that he has been charged by the committee with the task of bringing a public defender, assistant attorney general, and a district/county attorney into its membership.</p> <p>Julie Goyen, Chief Information Officer, reported that as of August 5<sup>th</sup>, the courtroom technology audits have been completed in 42 courtrooms (60%), and the final courtroom visits are scheduled for August 29<sup>th</sup>. The preliminary examples of Absolute! Audio Visual's work product include diagrams, pictures, and an equipment list for each courtroom. The company will complete its draft report in mid September. It will then contact the judges with its findings and ask for additional feedback to include in the final report due September 30<sup>th</sup>. The company will provide a good/better/best upgrade scenario for each courtroom. Justice Davis commented that the fundamental deficiencies that exist</p> |

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|                                | <p>in many courtrooms need to be dealt with before upgrades can be made. Chief Justice Burke mentioned that another important component of the project will be the training of court personnel.</p>   |
| <p><b>Court Automation</b></p> | <p>Chief Justice Burke and Julie Goyen, Supreme Court Information Officer, described the following developments in court automation:</p> <p><b>Circuit Court Upgrade</b><br/> Julie informed the board that the contract with Judicial Systems, Inc. (JSI) for FullCourt Enterprise, the upgrade to the circuit court’s current system, was entered into on June 24th. Initial installation of the system will happen in the next few weeks.</p> <p><b>WyUSER – District Court</b><br/> Julie advised that a WyUser status meeting was held on July 19th with the district judges, judicial assistants, and district court clerks, to advise them that a wind-down within WyUser is being initiated. Contract negotiations have been entered into with Justice Systems, Inc. (JSI) for the FullCourt Enterprise system, and a demonstration of the software will be given to the district court clerks on September 28<sup>th</sup> at WACO. Justice Davis pointed out that FullCourt Enterprise will not migrate financial data, however, all other data will migrate. He advised that this is expected to be a much smoother, less labor intensive process than it was with the previous system. The courts will continue to use WyUser until migration is complete. A module will permit changes to be made to certain aspects of the current WyUser program, which will allow for improved functionality until it is replaced. The project is expected to take two years or more.</p> <p><b>E-Filing</b><br/> Julie reported that the court is in contract negotiations with Tybera out of Salt Lake City for the eFiling system. The company has completed successful integrations with JSI in Kansas and with TR in the South Carolina trial courts.</p> <p><b>Jury Management – Pilot Courts</b><br/> Julie advised that the contract with Xerox was signed on June 20<sup>th</sup> for its AgileJury product. The initial installation of the software is planned for August 9<sup>th</sup>. Since the rollouts will be by county, circuit and district courts within the same judicial district are being scheduled. There will be a project kickoff meeting on August 24<sup>th</sup> with the circuit and district courts in Laramie and Platte counties. On-site training will be conducted during the week of August 29<sup>th</sup>. The system will be demonstrated to the district court clerks on September 28<sup>th</sup> at WACO, and the chief circuit court clerks at their meeting in Casper on October 5-7<sup>th</sup>. The project plan is expected to be fully completed by November 1<sup>st</sup>, and completion of the project will take approximately one year.</p> <p><b>Website</b><br/> Julie noted that the new website went live on June 1<sup>st</sup>. Chief Justice Burke emphasized that it is a judicial branch website and encouraged judges to contribute news about their courts to Becky Craig for posting on the site. He also encouraged the judges to look for opportunities to provide information about the judiciary that will help educate the public.</p> |

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| <p><b>Court Security</b></p>             | <p>Lily Sharpe reviewed recent court security developments. Goshen, Albany, Crook, Niobrara and Platte Counties have received grants from the 2015 legislative appropriation for court security. Big Horn and Weston Counties are in the process of applying to the Office of State Lands and Investments for grants. Park County has not applied for funding. Judge Cranfill explained there is limited support for using county funds for court security improvements at this time. A report provided for the meeting identified the total amount of unspent court security funds from the \$1,083,422 that was appropriated in 2015 and the \$6,000,000 appropriated in 2014 for Fremont and Sweetwater Counties. In May, 2016, the State Justice Institute awarded Wyoming \$50,000 to conduct additional security audits in Converse, Carbon, Uinta, Lincoln, Washakie, Hot Springs and Sheridan counties. Lily further reported that the Court Security Commission met on August 3, 2016. The commission discussed its annual report during the meeting, and will submit the report to the Governor, the Joint Appropriations Committee and the Joint Judiciary Committee by September 1, 2016. In September, the commission will distribute a Workplace Violence DVD to judges at the Judicial Council Meeting. Chief Justice Burke encouraged the local court security committees to make their annual reports as meaningful as possible, and for the judicial conference members to take the leadership positions in the pursuit of court security in their counties.</p>   |
| <p><b>Children’s Justice Project</b></p> | <p><b>Children’s Justice Conference</b><br/> Eydie Trautwein, CJP Coordinator, updated the board on the Children’s Justice Conference that was held on June 22-24<sup>th</sup> in Casper for 225 attendees. Pre-conferences were held for prosecutors, parent attorneys, guardian ad litem and DFS. A survey was sent out immediately following the conference. Out of 77 responses, 68 attendees (88%) rated the conference as excellent or very good. Highlights of the conference included use of a video featuring Justice Kautz and various attorneys titled “Shelter Care Hearings: Skills Based Training on Safety Planning”; a video featuring Judge Wilking and Justice Kautz titled “Permanency Hearings: Skills Based Training”; Judge James lead a panel on new jury instructions; Judge Lung, a Colorado District Judge, presented a session titled “Trafficking, Trauma, Resiliency, and Evidence-Based Hope”; Dr. Henry James facilitated plenary on secondary trauma followed by action planning for each judicial district; and Jim Anderson (U.S. Attorney’s Office) and Bob Leazenby (DCI) conducted a breakout on Trafficking and Pornography Investigations. Also, information was presented on immigration law and new case law/statutes related to Title 14. Eydie reported that Professor John Burman was very deservedly chosen as the 2016 Golden Award winner, and Justice Golden did a wonderful job of presenting the award.</p> <p><b>Grant Funding Status</b><br/> Eydie reminded the board that CJP and all CIPs nationwide are funded via federal grants. Reauthorization of this funding is being considered by Congress through consideration of the Family First Prevention Services Act of 2016 (H.R. 5456/ S. 3065) bill. This legislation reauthorizes child and family services programs under Title IV-B of the Social Security Act, including the three Court Improvement Program (CIP) grants through FY 2021 at the current funding level. Unfortunately, the bill stalled in Congress and they were unable to move the legislation before the summer recess. Congress will again consider the bill when they resume on September 6<sup>th</sup>. This delay has caused concern and some CJP projects may be delayed. Eydie indicated that various strategies to continue the CJP conferences are being investigated, including reducing the length of each conference, or</p> |

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|  | <p>combining it with the Crimes Against Children Conference hosted by the Victims Services Division of the Attorney General’s Office.</p> <p><b>Federal CFSR Review</b><br/> Eydie also indicated that the Federal CFSR Review for Wyoming occurred on July 11<sup>th</sup>. This was an in-depth case review of 65 abuse/neglect, CHINS, Delinquency or DFS in-home cases. The results confirmed the data generated by CJP over the last several years. There are many positive things happening in Wyoming, but the review will result in Wyoming being on a Program Improvement Plan (PIP). There will be a formal report released in the next several months. The review indicated that Wyoming continues to struggle with permanency outcomes (establishments of appropriate and timely permanency goals for children, timely permanency hearings, and TPR filings). In many cases, permanency hearings were not held within 12 months of removal, which resulted in poor scores on the federal instrument. These issues will be a primary focus of the CJP over the next several years. Chief Justice Burke urged the District Judges’ Conference to work with Eydie to draft a response, if one is needed.</p>   |
| <p><b>Judicial Learning Center</b></p> | <p>Eydie Trautwein commented that the June 30<sup>th</sup> video shoot for the “Hear from a Judge” exhibit went very well. She extended her thanks to Justice Fox, Judge Skavdahl, Judge Lavery, Judge Cranfill, and Judge Roberts. Eydie noted that the most recent Advisory Board meeting occurred on August 1<sup>st</sup>. Warehouse 21 presented their creative designs, which included the final exhibit content and images. The next steps are:</p> <ul style="list-style-type: none"> <li>• Finalize content and images</li> <li>• Interactive Production (8/15-9/13)</li> <li>• Graphic Production (8/15-9/13)</li> <li>• Exhibit Production (9/1-10/31)</li> <li>• Exhibit Installation (11/1-11/15)</li> <li>• Grand Opening (the week of January 2<sup>nd</sup> or 9<sup>th</sup>)</li> </ul>   |
| <p><b>Access to Justice</b></p>        | <p><b>Equal Justice Wyoming</b><br/> Angie Dorsch reviewed the highlights of Equal Justice Wyoming’s Annual Report to the Supreme Court covering the 2016 fiscal year. She reported that the goals of Equal Justice Wyoming are in line with the national goals: 100% access, justice for all, and individuals having the ability to address an individual’s civil legal needs in a meaningful way. Angie touched on a few of the projects and improvements that the EJW is pursuing:</p> <ul style="list-style-type: none"> <li>· A live chat feature was added this year, which is operated during the day with a full-time volunteer and during the evening by law students. The volunteers help navigate pro se litigants towards appropriate resources.</li> <li>· A self-help center was opened adjacent to the EJW office and is operated by a Vista volunteer. The office has two computer kiosks available for use.</li> <li>· A volunteer reference attorney pilot project was launched in Cheyenne this year, which places volunteer attorneys in the courthouse twice a month to help people move their cases along. EJW plans to expand this over the coming year to other areas in the state. Angie encouraged any courts that are interested in this program to contact her. The EJW helps with the administrative side: recruiting volunteer attorneys, arranging the schedules,</li> </ul> |

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|  | <p>and providing the materials, handouts, and referrals. The courts need to provide dedicated space in the courthouse that can be used twice a month.</p> <ul style="list-style-type: none"> <li>· EJW is launching a new pro bono website called “Free Legal Answers,” which is an ABA partnered website that allows income eligible individuals to ask a lawyer questions on line.</li> </ul> <p>Chief Justice Burke encouraged everyone to read Equal Justice Wyoming’s annual report, and to give Angie feedback on how the judiciary can better approach access to justice issues.</p> <p><b>Access to Justice Commission</b></p> <p>Justice Fox reported on the commission’s three working groups: 1) the Communications Working Group concluded that more information needs to be provided to people outside the judiciary, therefore, it is focusing on developing videos that will explain the concept of access to justice to the public; 2) the Delivery of Legal Services Working Group consulted with Judge Fenn about the pro se day program he held, and is looking at expanding the program to other counties. This group will also help with the Volunteer Reference Attorney project; 3) the Law Improvement Group is looking at ways to improve the domestic law systems and procedures. The commission will meet in September to review the reports from the working groups and decide how to move forward with the projects.</p> |
| <p><b>Judicial Council Meeting</b></p> <p>Members:<br/>Justice Kautz,<br/>Judge Skar,<br/>Judge Edelman,<br/>Judge Patchen<br/>and Judge Radda</p> | <p>Justice Kautz reported that four educational programs have been planned for the Judicial Council Meeting. Judge Waldrip will give a presentation on Pro Se Rules and case scenarios involving self represented litigants; Judge Skavdahl will give a presentation on the changes to the WRCP, how the rules work in Federal Court, and what can be done in state courts to make them flow smoothly; Professor Michael Smith, UW College of Law, will give a presentation on judicial writing; and Judge David Shakes, a judge from “Judicially Speaking,” a Colorado outreach program, will give a presentation on how to improve outreach.</p>  |
| <p><b>Permanent Rules Advisory Committee (PRAC)</b></p>  | <p><u>Appellate Rules:</u> Justice Davis remarked that the committee issued an expansive set of revisions to the Appellate Rules. The revisions will have little effect on trial court operations.</p> <p><u>Civil Rules:</u> Justice Fox advised that the committee asked the State Bar to circulate the changes that were made to the Wyoming Rules of Civil Procedure and to take comments through September 2nd. Justice Fox suggested that this information should also be provided to the clerks and law clerks. A presentation will be given at the State Bar meeting on the changes. Some of the top changes are:</p> <ul style="list-style-type: none"> <li>• The discovery rules now emphasize the importance of “proportionality.”</li> <li>• Rule 56(g) would now allow summary judgment on part of a claim, overruling <i>Errington v. Zolessi</i>, 9 P.3d 966 (Wyo. 2000).</li> <li>• Changes to Rules 3 and 4(w) adopt the federal model for determining the commencement of action.</li> <li>• Rule 4(v) is proposed to provide a uniform basis for a widespread, but divergent practice of accepting service.</li> </ul>   |

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|   | <ul style="list-style-type: none"> <li>• Almost all timeframes of 10 days are changed to 14, thus eliminating the need to subtract weekends and holidays.</li> <li>• Time for filing most post-trial motions is extended to 28 days.</li> </ul> <p><u>Criminal Rules</u><br/>Chief Justice Burke referred to a letter that was written by Judge Tyler that reports that the committee will meet on August 31<sup>st</sup>. One issue that will be discussed is the funding cuts that will particularly impact the public defender program and the need to possibility streamline the rules. Another issue involves the power of Wyoming courts to issue search warrants for electronically stored information outside of the State.</p> <p><u>Rules of Evidence</u><br/>Chief Justice Burke advised that there is nothing to report at this time concerning the Rules of Evidence.</p> <p><u>Juvenile Rules</u><br/>Justice Kautz commented that the committee will hold a meeting by early September to review the results of a survey that requested comments on areas of the Juvenile Rules that need to be improved.</p> |
| <p><b>Judicial Recruitment</b></p>  | <p>Chief Justice Burke spoke of the recent resignations of Judge Tharp and Judge Donnell, and of the importance of promoting judicial recruitment. He praised Judge Cranfill for his recent article in The Wyoming Lawyer in which he expressed appreciation for his judicial position and encouraged lawyers to submit their names for consideration for judicial appointment. Justice Fox, Justice Kite, Judge Healy, and Judge Korell will hold a panel discussion at the State Bar on the practical aspects of judicial selection.</p>   |
| <p><b>Title 25 and Title 7 – Meeting with Dept. of Health</b></p>   | <p>Chief Justice Burke informed the board of his recent meeting with Director Forslund and Deputy Director Schmidt from the Department of Health with regard to Title 25 and Title 7 cases. Cuts to the Department of Health’s budget and the resulting impact were discussed at the meeting. Chief Justice Burke pointed out that the wording in court orders regarding involuntary hospitalizations and forensic evaluations can affect federal funding. Lily will contact the Department of Health to obtain the language that should be included in these orders and will distribute the information to the district judges via Judge Fenn.</p>  |
| <p><b>Elder Task Force</b></p> <p>Members:<br/>Justice Fox,<br/>Justice Kautz,<br/>Judge Perry, Judge Campbell, Judge Roberts</p> | <p>Chief Justice Burke encouraged the District Judges’ Conference to take a pro-active approach to ensure that reports in guardianship and competency cases are being completed in a timely manner and that audits are being done routinely. The conference has taken steps to improve in this area by adopting standards and case management rules. Utilization of audit reports within the new case management system should help significantly. Judge Cranfill reported that the conference discussed the “Silver Tsunami” at its winter meeting and agreed that this is an important area of focus for the judiciary.</p>  |

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| <b>Western Region Pretrial Justice Reform Summit</b>   | <p>Chief Justice Burke, Lily Sharpe, Judge Tom Lee, and Judge Steven Sharpe attended this summit in May. Judge Sharpe and Judge Lee will provide information on evidence based pretrial issues at the Judicial Council Meeting in September.</p>   |
| <b>Conference of Chief Justices and Court Administrators</b>   | <p>The theme of the 2016 CCJ-COSCA Conference held in Jackson, Wyoming, was “Domestic Relations: Courts as the Mechanism for Change.” Chief Justice Burke reviewed the educational programs that were presented at the conference. He also thanked Lily, Ronda, and the Wyoming Supreme Court staff for their help in making it a successful conference. Chief Justice Burke will look into making the conference materials available to the circuit and district judges. He encouraged the judges to read Resolution 8 that was proposed by the CCJ’s Civil Justice Improvement Committee at the meeting. The resolution endorses the committee’s “Call to Action: Achieving Civil Justice for All”; encourages its use as a guide to improve the delivery of civil justice for all; encourages each state to develop and implement a plan to improve the delivery of civil justice; and directs the National Center for State Courts to take all available and reasonable steps to assist court leaders who desire to implement civil justice improvements. Chief Justice Burke remarked that Governor Mead gave a very eloquent speech at the opening ceremony about the importance of the judicial system and his appreciation for its work.</p> |
| <b>Judicial Education Committee</b><br>Members:<br>Chief Justice Burke,<br>Justice Kautz, Judge<br>Sullins, Judge<br>Lavery, Judge Haws<br>& Judge Healy | <p>Judge Haws encouraged everyone to provide their input to develop a judicial education program that will work specifically for Wyoming judges. He commented that the program will serve the judiciary well, not just for new judges, but for judges who lack experience with a particular type of issue.</p>   |
| <b>Judicial Outreach</b>   | <p>Chief Justice Burke informed the board that “You Be the Judge” programs will be held in Sheridan, Jackson, and Cheyenne before the end of the year. He emphasized that this program, and development of the “Judicially Speaking” program, provide great opportunities to educate the public about the judicial branch.</p>   |
| <b>Budget Update</b>   | <p>Discussion was held about the letter from the Joint Appropriation Management Council urging the judiciary to do its part in these tough budget times. Chief Justice Burke advised that he requested Kristi Racines, Chief Financial Officer, to analyze the judiciary’s growth over the past 12 years. Her research confirmed that the judiciary is very lean. The judicial branch has taken on more and is conducting business with essentially the same number of employees it employed 12 years ago.</p> <p>Kristi reported that during the 2016 session, the Judiciary’s 2017-2018 budget was already cut by approximately \$376,000. Cuts totaling \$317K were taken by the supreme court and circuit courts, and \$59K in cuts were taken by the district courts. If the JAC is approached with a supplemental budget with reductions, Kristi is looking into areas where additional</p>  |

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|  | cuts could be made with minimal impact. An area under evaluation is the district court transcript fees. These are in the 100 series (payroll) and are used for fees to the permanent court reporter only. This has been an area of substantial reversions in past biennia. Additionally, budgets for interpreters are another area under review. Each district judge has \$4500 budgeted for interpreters, but usage is very low. Budget cuts may have less of an impact if adjustments can be made in these areas. The budget will be a topic of discussion at the September Judicial Council Meeting. |
| <b>Legislative Committee</b>                 | Chief Justice Burke stressed the importance of members of the judiciary looking for ways to build and sustain strong relationships with their legislators. He encouraged the judicial conferences to take a leadership role and to make this an ongoing agenda topic.   |
| <b>Judicial Conference Reports</b>           | <u>Circuit Court Conference</u> : Judge Haws reported on the Legislature Services Office's request regarding possible amendments to the small claim rules. The conference is preparing a written response to Chief Justice Burke.<br><br><u>District Court Conference</u> : Judge Fenn reported that the conference is in the process of putting together its meeting agenda for September.   |
| <b>Misc. – Cross-Training of Court Staff</b> | Chief Justice Burke recommended that the courts cross-train their staff. He commented that in these tight budget times, we may be questioned about our procedures. If we aren't utilizing good practices, it could have an impact on our budget; if we are using good practices, it could minimize any financial impact that is going to occur. He encouraged the conferences to think of ways the judiciary can more efficiently and effectively do its job and use its resources.   |

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| <b>Actions Taken: No formal actions taken</b> |

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| <b>Schedule of Future Events</b> | Divisional Meetings & Judicial Council Meeting – September 13, 2016<br>Wyoming State Bar Meeting – September 13-16, 2016<br>BJPA Meeting, Video Conference – December 12, 2016<br>Legislature Convenes – January 10, 2017<br>Legislative Breakfast – January 11, 2017 |

Approved by email on September 20, 2016