

Board of Judicial Policy and Administration

MINUTES

Supreme Court Building, Room 237
Cheyenne, Wyoming
June 12, 2017
9:00 A.M. – Noon

Members Present

Chief Justice Jim Burke, Chair
Justice Kate Fox
Justice Keith Kautz
Judge John Perry*
Judge John Fenn*
Judge Steven Cranfill*
Judge Curt Haws*
Judge Bob Castor*

Members Not Present

Judge Wes Roberts

Other Judiciary Members Present

Justice Mike Davis
Judge Bob Skar, District Court Conference President*
Judge Brian Christensen, Circuit Court Conference President*

Judicial Staff Present

Patty Bennett, Clerk of the Supreme Court, Elisa Butler, Staff Attorney, Julie Goyen, Chief Information Officer, Nate Goddard, IT Infrastructure and Operations Manager, Tricia Gasner, Business Applications Manager, Heather Kenworthy, Business Analyst, Candice Breakfield, Data Base Administrator, Eydie Trautwein, Director of Legal Resources and Judicial Education, Kristi Racines, Chief Fiscal Officer, Cierra Hipszky, Administrative Assistant and Lily Sharpe, State Court Administrator

** Designates members present by video*

Welcome	Chief Justice Burke welcomed the Board members and others present.
Newly Elected BJPA Members	Chief Justice Burke advised the following BJPA members were re-elected by their conferences to serve an additional term on the Board: <ol style="list-style-type: none">1. Supreme Court Member: Justice Kate Fox2. District Court Member: Judge John Fenn

	<p>3. Circuit Court Member: Judge Wes Roberts</p> <p>The re-elected members will serve three additional years, from July 1, 2017 to June 30, 2020. Chief Justice Burke noted the district judges will need to select a judge to replace Judge Cranfill on the Board when Judge Cranfill retires on July 31, 2017.</p>
<p>New Judicial Appointments</p>	<p>Chief Justice Burke updated the Board on the new district court judicial selection and recent nominees for judgeships. The Governor selected Dawnessa Snyder to replace Judge Waldrip in the Second Judicial District. Judge Wade Waldrip's last day is July 7, 2017. The Judicial Nominating Commission sent three names to the Governor on May 18, 2017 to replace Judge John Brooks in the Eighth Judicial District: Edward A. Buchanan, Kerri M. Johnson and F. Scott Peasley. Judge Brooks retires August 4, 2017. The Commission also sent three names to the Governor on May 23, 2017 to replace Judge Steve Cranfill in the Fifth Judicial District: S. Joseph Darrah, Keith R. Nachbar and William L. Simpson.</p> <p>The Chief Justice informed the Board there was a good interest in the positions. He observed, however, the recent bar survey reflected a perception the Governor is appointing mainly prosecutors. The Chief confirmed there are not as many applicants from the private bar as there are from government employment.</p>
<p>Judicial Education Committee</p> <p>Members: Justice Kautz (Chair), Chief Justice Burke, Judge Sullins, Judge Lavery, Judge Haws, and Judge Healy</p>	<p>1. Bar Convention Schedule – September 12 & 13, 2017</p> <p>Justice Kautz, Chairman, and Eydie Trautwein listed the topics and speakers the Committee selected for judicial education at the State Bar Convention. (Appendix 1) The schedule includes a session on judicial ethics presented by Keith Fisher, with the National Center for State Courts, and a session on advanced evidence for Wyoming judges, presented by University College of Law Professor Steve Easton.</p> <p>2. New Judge Orientation</p> <p>Judge Rumpke has provided the district court bench book to be distributed to the new judges.</p>
<p>Judicial Conference Reports</p> <p>District Conference President: Judge Skar</p> <p>Circuit Conference President: Judge Christensen</p> <p>Judicial Council Chairman: Chief Justice</p>	<p>1. Circuit Court Conference Update – Judge Christensen</p> <p>A. April Meeting (Jackson)</p> <p>The bulk of the meeting focused on mediation, with a presentation by a speaker from the National Center for State Courts. The judges also discussed creating a central data base for judges and an amendment to Wyoming Rule of Criminal Procedure 41(b) to allow circuit judges to issue search warrants statewide. In addition, the spring meeting included an update from the Attorney General's Office on the 24/7 program. It is unclear if the program will continue since there has not been substantial participation by sheriffs. Finally, the circuit judges discussed rules on video conferencing in circuit courts. There are still issues surrounding video conferencing of preliminary hearings. Justice Davis' law clerk, Tyler Garrett, is researching the issues.</p> <p>2. District Court Conference – Judge Skar</p>

Burke	<p>A. April Meeting (Thermopolis)</p> <p>The district judges met with the Joint Judiciary Committee during the judges' spring meeting. Judge Skar encouraged the Committee to consider judicial raises, particularly in light of the number of judges retiring in the next few years. Judge Skar pointed out that raises are needed encourage private attorneys to apply for judgeships.</p> <p>B. Poll as the whether Wyo. R. Crim. P. 35 restricts a modification of probation after a year</p> <p>Judge Skar polled the judges as to whether Criminal Rule 35 limits a court's authority to modify probation more than one year after imposition of a sentence. All the judges agreed that probation could be modified after one year.</p>
Judicial Budgets	<p>Judicial Budgets – Kristi Racines</p> <p>The Supreme Court and district courts' 2019-2020 budgets must be submitted to the Joint Appropriations Committee by November 1, 2017. Kristi Racines will contact judges this summer about their needs for the next biennium. Because the economy continues to lag, the Joint Appropriations Committee may be hesitant to approve exception requests. Chief Justice Burke followed up that he received a letter from Judge Campbell asking for support from the Board for legislative funding for the new judge and staff and support for immediate funding for a fourth law clerk.</p>
Judicial Branch Technology	<p>IT DIVISION UPDATE – Julie Goyen</p> <p>1. New Staff and Projects</p> <p>Julie Goyen introduced the new staff who have joined the Branch IT team to implement the courts' automation projects. The IT division organization structure and project teams are attached. (Appendix 2) In general, the IT division is composed of a "software application" section and an "infrastructure" section. The new staff are:</p> <ul style="list-style-type: none"> A. Tricia Gasner – Tricia is the manager of the software section. She will assure the software applications used by the branch are efficient, meet the needs of the branch and are timely implemented throughout the state. B. Candice Breakfield – Candice has taken over Julie Goyen's position as the database administrator. Candice will manage and ensure the integrity of the judicial branch databases. C. Heather Kenworthy – Heather is a business analyst. She will assist implementation of the circuit and district court case management systems and the new jury system. D. Nate Goddard – Nate is the infrastructure and operations manager. He will assist with upgrading the courts' network and hardware. E. Tyler Christopherson – Tyler is an IT collaboration specialist, as well as a hardware specialist. He will train judges and staff on the new software

<p>Campbell, Judge Christensen, Judge Castano, Judge Haws</p>	<p>replaced to ensure compatibility with updated and secure software applications. The entire project, including upgrades and disaster recovery will be completed in three phases.</p> <p>COURTROOM AUTOMATION COMMITTEE UPDATES</p> <p>1. Overview – Justice Davis</p> <p>Substantial work has been completed on configuring the case management systems. The configuration is required to move the circuit and district courts to FullCourt Enterprise. The process is arduous and the committees have been working very hard. The district and circuit court committees have put in many hours and made substantial progress.</p> <p>2. Project Status – Elisa Butler</p> <p>A. District and Circuit Court Automation Committees and FullCourt Enterprise Configuration</p> <p>The Circuit and District Court Case Management Committees have met weekly with Judicial Systems, Inc. (JSI) and have conducted their own work sessions to identify how FullCourt Enterprise must be configured to account for the courts’ business practices. The last major meeting will be held in September.</p> <p>B. aiSmartBench</p> <p>Judges’ Tools will only be implemented in district court for now, but hopefully will be an option for circuit courts in the future. The software has been installed in the Supreme Court and staff is familiarizing themselves with it. Judge Skar remarked that the district judges will preview aiSmartBench at their September meeting.</p> <p>C. Public Access</p> <p>The Judiciary will purchase a public access module from JSI. The Public Access Committee, chaired by Judge Castano, will meet on June 29, 2017 for several hours to work out a number of issues surrounding public access.</p> <p>D. E-Filing</p> <p>Contract negotiations took place late last year with a company called “Tybera.” Because E-filing must interact with the case management system, the negotiations were postponed to ensure the case management system implementation timelines were met. The case management system implementation has proceeded in a timely fashion, and the negotiations will be restarted within the next two months.</p> <p>2. Case v. Count – Justice Davis, Chair, and Elisa Butler</p> <p>Substantial discussion was held by the Board as to whether the Judicial Systems Automation (JSA) fee should be imposed on each case or each count. Justice Davis referred to Rule 1 of the Circuit Court Fees and Costs, Rule 3 of the Rules of Criminal Procedure and the Case v. Count Memorandum. (Appendix 4) Historically, the JSA fee was charged per case. In 2002, the Board amended Rule 1 and Rule 3 to permit only one charge on each citation and imposed the JSA fee on each citation. Consequently, a defendant in circuit court who receives several citations for one encounter, commonly pays more JSA fees than in district court.</p>
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	<p>Additionally, the circuit and district judges are evenly split on how they are actually imposing court fees. The Highway Patrol would like to put more than one charge on a citation. Judges Castor and Haws pointed out that permitting multiple charges on one citation would create logistical difficulties for prosecutors and clerks because court fees differ based on the charge. For example, if a DUI and failure to change lanes were charged, the law enforcement officer would have to include a drug court surcharge on the DUI, but not on the failure to change lanes. The error rate on citations would increase dramatically. Elisa Butler and Lily Sharpe voiced concerns, however as to the fairness of imposing fees unequally and concerns whether the Supreme Court's decision in <i>Hawes v. State</i> requires fees to be imposed per case (and encounter). Judge Christensen responded that there is a practical difficulty to multiple counts on a citation. For example, if an individual is charged with a marijuana offense and a spice offense, the spice must be sent into crime lab since not all spice is illegal. The clerk will not be able to determine if the counts should be in the same case with the marijuana or in a new case. After substantial discussion, no action was taken to allow multiple charges on one citation. Justice Fox moved to recommend the Supreme Court amend Rule 1 to provide "case" not "count." Judge Haws seconded the motion. The motion passed on a voice vote.</p> <p>OTHER BRANCH PROJECTS</p> <p>1. Jury Management System – Tricia Gasner and Heather Kenworthy</p> <p>Wyoming baseline configurations have been sent to the vendor. Weekly meetings have been scheduled with the vendor and jury management team. The team hopes to start rollout the system in early 2018. When scheduling, the team will be sensitive to the rollouts scheduled for the case management systems.</p>
<p>Redaction Committee</p> <p>Judicial Members: Justice Davis (Chair), Judge Castano</p>	<p>1. Update – Justice Davis, Chair, and Patty Bennett</p> <p>Patty Bennett highlighted the broad representation on the Redaction Committee. The Committee includes a court reporter, supreme, circuit and district court clerks, a judicial assistant and a practicing attorney. The Committee faces many issues, including redaction of mandatory transcripts in criminal cases and redaction of victims' addresses.</p>
<p>Permanent Rules Advisory Committee (PRAC)</p> <p><u>Appellate Division</u> Judicial Members: Justice Davis, 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: Judge Edelman (Chair), Judge Arp</p>	<p>1. Appellate Rules Update – Patty Bennett</p> <p>The next meeting is scheduled for July 14, 2017. It is anticipated minor amendments will be considered.</p> <p>2. Civil Rules Update – Patty Bennett</p> <p>Few comments have been received about the amended rules that became effective March 1, 2017.</p> <p>3. Criminal Rules Update – Patty Bennett</p> <p>A. Rule 41(b)</p> <p>At the last BJPA meeting, the Board agreed to forward the Circuit Court judges' proposed change to Criminal Rule 41(b) to the Criminal Division for comment.</p>

<p><u>Evidence Division</u> Judicial Members: Judge Rumpke (Chair), Judge Nau, Judge Radda</p> <p><u>Juvenile Division</u> Judicial Members: Judge Wilking (Chair), Justice Kautz, Judge Campbell, Judge Fenn</p>	<p>The proposal would clarify the authority of circuit court judges to issue a warrant statewide as follows:</p> <p style="padding-left: 40px;">Rule 41. Search and Seizure</p> <p style="padding-left: 40px;">(b) <i>Authority to issue warrant.</i> - Upon the request of the attorney for the state or a federal, state, or local peace officer, a search warrant authorized by this rule may be issued by a judicial officer. If issued by a judicial officer other than a district <u>or circuit judge</u> it shall be by a judicial officer for the jurisdiction wherein the property sought is located.</p> <p>Patty Bennett communicated concerns from the Criminal Division that Wyo. Stat. § 5-9-130 should also be changed. The section provides:</p> <p style="padding-left: 40px;">§ 5-9-130. Concurrent jurisdiction</p> <p style="padding-left: 40px;">For purposes of assignment, all circuit court judges throughout the state shall have concurrent jurisdiction with all district court judges throughout the state.</p> <p>Judges Christensen and Haws respectfully suggested that Chapter 9 of Title 5, read in its entirety, including that circuit judges can hold court for each other and that “process of a circuit court shall extend throughout the state” show statewide jurisdiction exists already. After thorough discussion, Judge Haws moved, seconded by Judge Castor, to recommend the Supreme Court adopt the requested rule change. The motion carried on voice vote. Patty Bennett will prepare a proposed order for the Supreme Court.</p> <p style="text-align: center;">B. Rule 43</p> <p>The Courtroom Technology Committee has approved possible amendments to Wyo. R. Crim. P. 43 to allow remote video appearance in certain proceedings. Patty Bennett and Karl Linde are reviewing the modifications and will forward them to the Criminal Rules Division to provide comment to the BJPA.</p> <p>4. Rules of Evidence Update – Patty Bennett</p> <p>Judge Rumpke and the Evidence Division met in April 2017 to consider areas in which the Wyoming Rules differ from the Federal rules. The Committee will meet at the State Bar Convention in September to continue the review.</p> <p>5. Juvenile Rules Update – Patty Bennett</p> <p>Judge Wilking and the Juvenile Division are working on minor revisions, including discovery matters and to whom the Department of Family Services is required to provide records. Another meeting will be set within the next month.</p>
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<p>Judicial Ethics Advisory Committee</p> <p>Judicial Members: Judge Bluemel, Judge Campbell, Judge Greer</p>	<p>1. No Update</p>
<p>Court Security Update</p>	<p>1. Update – Lily Sharpe</p> <p>A. Court Security Assessments</p> <p>i. Court Security Assessments 2014</p> <p>a. State funds in the amount of \$2,565,515 were approved for Fremont County, and the new Riverton Justice Center was dedicated on June 5, 2014.</p> <p>b. State funds in the amount of \$3,434,485 were approved for Sweetwater County. The estimated cost of the project is over \$20,500,000 and anticipated to be completed in late 2017 or the spring of 2018.</p> <p>ii. Court Security Assessments 2015</p> <p>a. State funds in the amount of \$1,083,422 were approved for eight counties: Albany, Big Horn, Crook, Goshen, Niobrara, Park, Platte, and Weston. All counties except for Park County have applied for funding and are in various stages of completing the security improvements.</p> <p>iii. Court Security Assessments 2016</p> <p>a. The Supreme Court received State Justice Institute funding to conduct seven additional courthouse security assessments. Funding was approved for Converse, Carbon, Uinta, Lincoln, Washakie, Hot Springs, and Sheridan Counties. All of the reports for the 2016 Court Security Assessments have been completed and distributed to the judges in the seven counties.</p> <p>B. The Court Security Commission next meeting will be August 2, 2017.</p>
<p>Access to Justice</p>	<p>1. Access to Justice Commission – Justice Fox</p> <p>The AJC working groups are hard at work. The Communications working group, with the help of Adbay, has completed two videos that will be distributed in various media.</p> <p>https://www.youtube.com/channel/UCFhfA031gAey5V9qEV1m7pA. The group also developed the brochure “Where Can I Find Legal Help?” which is distributed to each district and circuit court clerk as well as public libraries across the state.</p>

	<p>The Delivery of Legal Services working group is supporting the rollout of Volunteer Reference Attorney programs, which have so far been very successful in Cheyenne, Laramie, Casper and Sheridan. This group continues to look at other ways to assist the courts by smoothing the way for self-represented litigants. The Law Improvement working group continues to review and identify statutory obstacles to access to justice.</p> <p>2. Elder Task Force – Justice Fox</p> <p>The Task Force completed its task in the form of the report that can be found at - http://www.courts.state.wy.us/Documents/News/20170120ReportToGovernor.pdf. Of particular interest to the judiciary is the recognition of the need for more aggressive pursuit of elder abuse, neglect and exploitation, by law enforcement, DFS and DOH.</p>
Children’s Justice Project	<p>1. Update – Eydie Trautwein</p> <p>CJP has received full grant funding for FFY17 (October 1, 2017 through September 30, 2018). Grant funding through 2021 is still somewhat uncertain because Congress has started funding the program year to year (instead of a 5-year funding cycle). CJP is co-hosting an Indian Child Welfare Act (ICWA) summit on June 26th – 27th in Riverton, Wyoming and CJP is co-hosting Wyoming’s Joint Symposium on Children and Youth, which will be held on August 15-17, 2018 in Laramie, Wyoming. CJP will be looking for a new district court judge member for the CJP Advisory Council to fill retiring Judge Cranfill’s position.</p>
Judicial Learning Center	<p>1. Update – Eydie Trautwein</p> <p>Over 888 people have visited the Learning Center between January 9th through June 1, 2017. The enhancements to the theater have been completed. The Center received a grant from the Wyoming Community Foundation to hold a lesson plan contest this summer.</p>
Pretrial Release Issues	<p>1. Court Ordered Financial Obligations – Judge Haws</p> <p style="padding-left: 40px;">A. Working Group Formation and Progress</p> <p>A working group has been formed to study and develop tools for judges when an offender fails to pay or cannot pay a fine, fee or other monetary portion of a sentence. This is particularly important in light of the U.S. Department of Justice report on Ferguson, Missouri. The working group may have a draft memo by the next BJPA meeting.</p> <p>2. Evidence Based Pretrial Practices – Patty Bennett</p> <p>Patty Bennett is working with sheriffs to compile data on the release and detention of defendants before disposition of criminal charges, including who is in jail, why they are there and how long they have been there. A study was conducted in Nevada that may be useful to our courts. Judge Christensen added</p>

	that he and other circuit judges are also tracking pretrial statistics and Circuit Judges receive a monthly report to monitor when defendants remains incarcerated.
Title 7 Orders	<p>1. Uniform Orders Update – Judge Fenn</p> <p>At the last BIPA meeting, Judge Fenn recounted that last fall Department of Health Director Tom Forslund sought a meeting with Chief Justice Burke, Judge Fenn and other judiciary and legislative representatives to discuss issues relating to Title 7 Criminal Competency/Responsibility evaluations and Title 25 Involuntary Hospitalizations. Director Forslund indicated that the Department of Health was struggling at times to comply with Title 7 court orders. Specifically, he was concerned about unrealistic deadlines in some of the orders and inability to obtain information from the prosecutor and defense counsel in a timely manner. The judiciary representatives worked with the Department of Health and Attorney General's Office to generate updated orders for criminal competency or responsibility evaluations to ensure the Department timely receives information. The orders will be sent to all judges and discussed at the September Conference meetings. (Appendix 5)</p>
Judicial Outreach	<p>1. Update – Justice Fox</p> <p>Justice Fox, Judge Rogers, Judge Healy and Supreme Court staff recently interactively participated in Girls State to advance the delegates' knowledge about the Judicial Branch. Justice Kautz also met with Boys State delegates.</p>
Audit of Circuit Courts	The Board received circuit court audit reports for Rock Springs, Riverton, Lander and Riverton.
Judge Kail Photo on Equality Wall	<p>1. Update – Eydie Trautwein</p> <p>At a previous BIPA meeting, Judge Roberts suggested that Judge Betty Kail's photograph be placed on the Equality Wall in the Supreme Court. Judge Kail was the first female county court judge and first district court judge in Wyoming. She passed away on March 11, 2017. Eydie will work with Judges Denhardt and McKee, along with family and colleagues of Judge Kail, to host a ceremony commemorating Judge Kail and to add her photograph to the Equality Wall. The ceremony will likely be held in the fall.</p>
Other Matters	<p>1. Judge Cranfill Retirement – Chief Justice Burke</p> <p>Chief Justice Burke expressed appreciation and praise for Judge Cranfill who will retire on July 31, 2017. The Chief thanked Judge Cranfill for his dedication and service to the Judiciary. Judge Cranfill has served as a district court judge since September 12, 2006 and his presence on the bench will be greatly missed.</p> <p>2. Legislative Update – Chief Justice Burke</p> <p>The need to address judicial salaries continues to increase. A salary increase</p>

	plan will be placed on the agenda for the next meeting. Judge Perry emphasized there are many new legislators who will need to be educated about the history of judicial salaries and the importance of an increase.
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Actions taken by the Board:

1. Recommend the Supreme Court amend Wyo. R. Crim. P. 41(b) to clarify circuit court judges may issue search warrants throughout the State.
2. Recommend the Supreme Court amend Rule 1(b) of Wyoming Rules for Fees and Costs for Circuit Courts to provide “case” not “count.” (Appendix 6)

Action Items:

1. Patty Bennett to prepare a proposed order for the Supreme Court amending Rule 1(b) of the Wyoming Rules for Fees and Costs for Circuit Courts changing “count” to “case.”
2. Patty Bennett to prepare a proposed order for the Supreme Court adopting the circuit court judges’ recommended change to Wyo. R. Crim. P. 41(b). (Appendix 7)
3. Patty Bennett and Karl Linde to review proposed modifications to Wyo. R. Crim. P. 43 to allow remote video appearance in certain proceedings and forward them to the Criminal Rules Division to provide comment to the BJPA.
4. Judge Haws and working group to develop options for judges when a defendant cannot pay or refuses to pay a fine or fee.
5. Judge Fenn to discuss Title 7 orders with Judicial Council at the September meeting.
6. BJPA to develop information and plan for legislation addressing judicial salaries.

Board Directives:

1. Judicial salary increase plan to be placed on next BJPA agenda.

Committee Notifications:

1. District Court conference to select representative to BJPA upon July 31, 2017 retirement of Judge Cranfill.

Schedule of Future Events	JAC Meeting – July 17-18, 2017 (Rawlins) Wyoming’s Joint Symposium on Children and Youth (Laramie) – August 15-17, 2017 BJPA Meeting – August 14, 2017 Judicial Conferences and Council Meeting – Sept 12-15, 2017 JAC Consideration of Judicial Budgets – Dec 5, 2017, morning

Appendix 1: Judicial Council Meeting Tentative Schedule, State Bar Convention, Sept. 12-13, 2017 Appendix 2: IT Organization Chart and Project Staffing Appendix 3: Bill Draft – Court Information Technology Equipment Appendix 4: Case v. Count Memo Appendix 5: Title 7 Order Templates Appendix 6: Rule 1(b) of Wyoming Rules for Fees and Costs for Circuit Courts Appendix 7: Wyo. R. Crim. P. 41(b) Proposed Amendment	

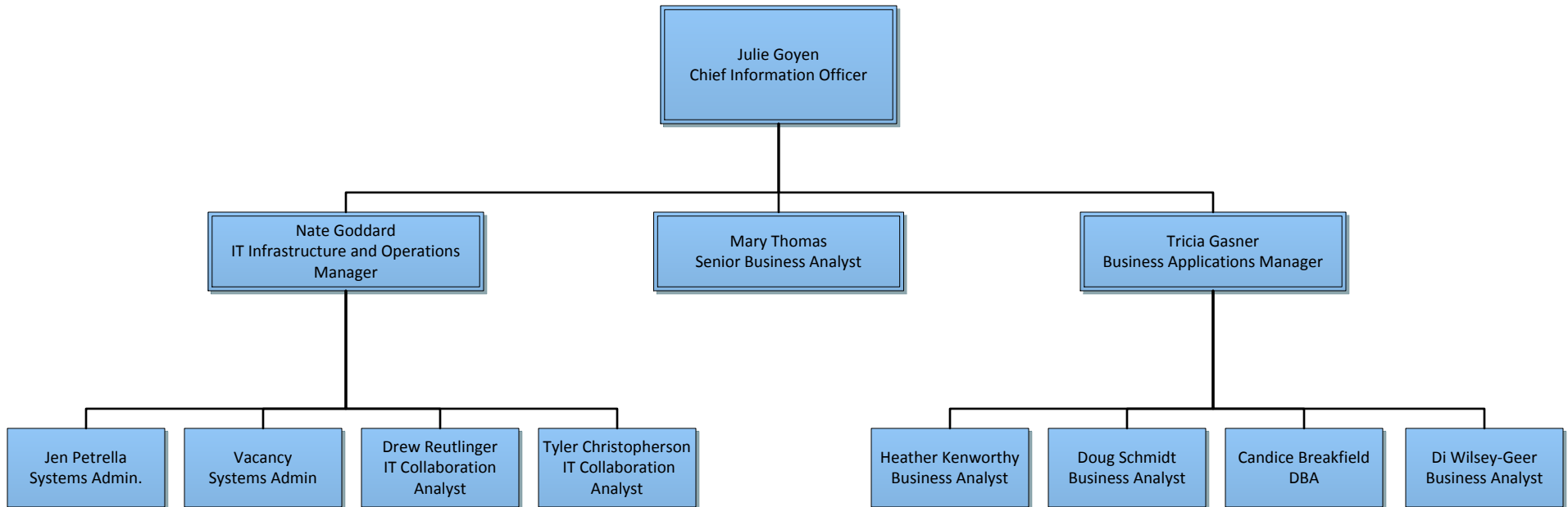
Approved on July 31, 2017

Judicial Council Meeting Tentative Schedule
Cheyenne Room – Little America

Tuesday, September 12th		
Time	Topic	Presenters
9:00 a.m. to 9:15 a.m.	Welcome	Chief Justice Burke <i>Wyoming Supreme Court</i>
9:15 a.m. to 10:45 a.m.	Advancing Legal and Evidence-Based Pre-trial Practices	Honorable James Cawthon (and other panelists) <i>Magistrate Judge, Boise Idaho</i>
10:45 a.m. to 11:00 a.m.	<i>Break</i>	
11:00 a.m. to noon	Judicial Ethics	Keith Fisher, J.D. <i>National Center for State Courts</i>
Lunch Noon to 1:15 p.m.	Implicit Bias	Honorable Louis A. Trosch, Jr. <i>District Court Judge, 26th Judicial District Charlotte, NC</i>
1:15 p.m. to 1:30 p.m.	<i>Break</i>	
1:30 p.m. to 4:30 p.m.	Advanced Evidence for Judges (Wyoming Version)	Professor Steve Easton <i>University of Wyoming College of Law</i>
Wednesday, September 13th		
Time	Topic	Presenters
7:30 a.m. to 8:15 a.m.	Children's Justice Project Breakfast 2017 Juvenile Case Law Update	Attorney General's Office, Guardian <i>ad Litem</i> Division and the Children's Justice Project
8: 30 a.m. to 9:30 a.m.	Criminal Update for the Judiciary	Jim Anderson, J.D. U.S. Attorney's Office (retired)
9:30 a.m. to 9:45 a.m.	<i>BREAK</i>	
9:45 a.m. to 10:45 a.m.	Civil Update for the Judiciary	Craig Silva, J.D. <i>Williams, Porter, Day & Neville P.C.</i>
10:45 a.m. to 11:00 a.m.	<i>BREAK</i>	
11:00 a.m. to noon	Pro-Se Litigants	Honorable William Hood <i>Colorado Supreme Court</i>
Lunch	Judicial Luncheon	
1:30 p.m. to 4:30 p.m.	Judges' Divisional Meetings	
5:00 p.m.	Welcome Reception	

Wyoming Supreme Court – IT Organization

2017



Wyoming Supreme Court – Project Staffing

2017

Case Mgmt. / Judge Tools / E-Filing

- Mary Thomas
- Di Wilsey-Geer
- Heather Kenworthy
- Tyler Christopherson
- Candice Breakfield

Jury Management

- Tricia Gasner
- Heather Kenworthy
- Doug Schmidt
- Di Wilsey-Geer
- Candice Breakfield
- Drew Reutlinger

Courtroom Technology

- Julie Goyen
- Nate Goddard
- Jen Petrella
- Drew Reutlinger
- Tyler Christopherson

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Court information technology equipment.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to courts and counties; and delineating
2 responsibility for court information technology equipment
3 between the judicial branch and counties; providing
4 definitions; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 5-2-120, by creating new subsections
9 (a) through (d), and 18-2-103, by creating new subsections
10 (a) through (d), are amended to read:

11

12 **5-2-120. Judicial systems automation account created;**
13 **purposes.**

1
2 (a) There is created an account entitled the
3 "judicial systems automation account." No funds shall be
4 expended from the account unless and until the legislature
5 appropriates the funds. Funds within the account shall be
6 used by the supreme court for the purchase, maintenance and
7 operation of computer hardware, including court information
8 technology equipment, and software to enhance the
9 communication, records and management needs of the courts
10 of the judicial branch of the state of Wyoming. Interest
11 accruing to this account shall be retained therein and
12 shall be expended for the purposes provided in this
13 section, as appropriated by the legislature. Annually, the
14 supreme court shall develop a plan for all trial and
15 appellate courts within the state for the expenditure of
16 funds from the account. Prior to implementation, the plan
17 shall be annually submitted to the joint appropriations
18 interim committee and joint judiciary interim committee for
19 review and comment.

20

21 (b) Implementation of court information technology
22 equipment requiring alterations of county buildings
23 pursuant to W.S. 18-2-103(b) shall be accomplished in

1 consultation with the board of county commissioners of each
2 county or the board's appointed designee.

3
4 (c) The supreme court shall install courtroom
5 information technology equipment in state courtrooms in a
6 phased approach following the effective date of this act.
7 Upon installation of courtroom information technology
8 equipment in a courtroom, the supreme court shall maintain
9 and support the equipment installed by the supreme court.

10
11 (d) "Court information technology equipment" means
12 hardware equipment located in the circuit and district
13 courtrooms, the circuit and district court jury rooms, the
14 circuit and district court judges' chambers and the offices
15 of the circuit court clerks necessary to meet, but not
16 exceed, the court information technology equipment
17 standards most recently adopted by the board of judicial
18 policy and administration.

19
20 **18-2-103. Buildings generally.**

1 (a) Each county shall provide and maintain a suitable
2 courthouse, jail and other necessary county buildings.

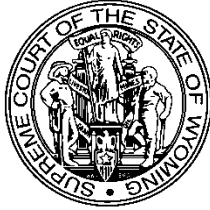
3
4 (b) Each county shall provide and maintain
5 infrastructure to ensure the proper function of court
6 information technology equipment including, but not limited
7 to, requisite power outlets, network drops, audio and
8 visual drops and associated wiring for connectivity of all
9 endpoints and peripherals associated with court information
10 technology equipment.

11
12 (c) For purposes of this section, "court information
13 technology equipment" means as defined in W.S. 5-2-120(d).

14
15 Section 2. This act is effective immediately upon
16 completion of all acts necessary for a bill to become law
17 as provided by Article 4, Section 8 of the Wyoming
18 Constitution.

19
20 (END)

SUPREME COURT OF WYOMING



DATE: June 6, 2017

TO: BJPA
FROM: Elisa Butler
RE: Case vs. Count

During the last few court automation meetings, the committees were presented with the question of whether fees should be charged on a per case or per count basis in criminal matters. There has been quite a bit of discussion and some committee members have expressed a discomfort in deciding such a far-reaching policy question.

Currently, in all of the circuit courts and some district courts, criminal (and citation) matters are divided up based on count or charge rather than by the case. As a result, for defendants who receive more than one charge per encounter with the authorities, they are subject to the imposition of fees for each charge rather than for each case. For example, if a defendant is pulled over and cited for five different violations, that defendant will be required to pay the same fees (such as the CLS and JSA fees) for each of the five violations if convicted.

The Rules for Fees and Costs in the Circuit Courts specifically require circuit courts to charge fees for each count, regardless of whether those counts arose out of the same case or stop. However, the statutes provide that fees should be charged per case rather than per count. Both W.S. § 6-10-102 (felonies) and § 6-10-103 (misdemeanors) state, "The court shall impose a court automation fee of ten (\$10.00) in every **criminal case** wherein the defendant is found guilty In addition to the court automation fee the court shall impose an indigent civil legal services fee of ten dollars (\$10.00) in every **criminal case** wherein the defendant is found guilty" (Emphasis added).

Discussion in the automation committees' meetings and research on this topic led to the case of *Hawes v. State*, 2016 WY 30, 368 P.3d 879 (Wyo. 2016). In that case, the Supreme Court interpreted the statutory provisions pertaining to the imposition of the JSA and CLS fees as part of a sentence.

Hawes involved an original conviction of both stalking and kidnapping. At sentencing, the court implemented the JSA and CLS fee as part of the stalking charge. On appeal, the conviction on the stalking charge was overturned. The case was remanded and upon resentencing, the court imposed the JSA and CLS fee as part of the kidnapping charge. The defendant appealed arguing that his constitutional right against double jeopardy had been violated because the kidnapping charge had been increased after he had begun serving his sentence based on the additional fees. The Supreme Court rejected the defendant's argument. The Court found, "All of the statutes indicate that the fees are imposed as a result of being convicted in a **criminal case**, not as part of the sentence for any **particular crime**." *Id.* at 15, 368 P.3d at 884 (emphasis added). The Court went on to state,

“The statutes envision that sentencing courts in Wyoming impose the mandated fees separately as part of the **overall sentence**, rather than as part of the sentence for **an individual charge**.” *Id.* at ¶ 16, 368 P.3d at 885 (emphasis added).

The approach set forth in *Hawes* will require an amendment to the uniform citation order allowing law enforcement officers to include multiple charges from the same stop on one citation. It will also require an amendment to the Rules of Criminal Procedure and the Rules for Fees and Costs for Circuit Courts. The bond schedule will also need to be updated to reflect the change. Pursuant to the decision in *Hawes*, the CLS and JSA fees should be imposed based on a conviction of a criminal case, rather than individually on each separate charge.

STATE OF WYOMING)
Plaintiff,)
)
vs.)
)
[NAME])
Defendant.)

The above-captioned matter came before the court on the _____ day of _____, 20____
on the motion of _____ for a hearing pursuant to W.S. §7-
11-303.

1. CHARGES

- ☐ The Defendant has been charged with the following crime(s).
- ☐ The Defendant has been found guilty of the following crimes, but not yet sentenced.

Crime	Felony or Misdemeanor	Wyo. Statute(s) Violated	Date(s) Committed

There is question as to the Defendant's "capacity to comprehend his position, to understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate with his counsel to the end that any available defense may be interposed" under W.S. § 7-11-302(a).

1. PROCEEDINGS

All proceedings against the Defendant are suspended pending a determination as to the fitness of the accused to proceed, pursuant to W.S. §7-11-303(a).

The Defendant shall submit to an examination of his competency to proceed.

Defendant's present location _____

Address

Contact Information (phone, fax) _____

The Examination shall be conducted by a Designated Examiner of the Court's choosing on either an inpatient or outpatient basis. The Court may consider "proximity to the Court, availability of an examiner, and the necessity for security precautions" in its selection of the examination site, pursuant to W.S. §7-11-303(b).

Designated Institution or Examiner: _____

- ☐ Inpatient
- ☐ Outpatient
- ☐ Location to be determined by the Designated Institution or Examiner

If the evaluation is to be conducted on an inpatient basis

- (i) The Defendant shall be held for no more than a thirty (30) day period for the study of the mental condition of the accused, pursuant to W.S. §7-11-303(b);
- (ii) The Defendant shall be transported by the Sheriff or local law enforcement to the Facility in a timely manner upon notification from the Facility of an available bed.
- (iii) The Defendant shall be transported from the Facility by the Sheriff or local law enforcement in a timely manner after receiving notice that the examination has been completed.

If the evaluation is to be conducted on an outpatient basis, the jail or detention center, or the Defendant's Attorney, if the Defendant is out on bond, shall cooperate with the Designated Examiner in scheduling the examination and ensuring appearance of the Defendant.

3. COLLATERAL

The Prosecutor shall provide the following materials necessary to complete the examination to the Designated Examiner within ten (10) business days of issuance of this order:

- (i) A copy of the court order;
- (ii) The Defendant's name, social security number, and date of birth;
- (iii) NCIC and/or Wyoming Message Reports and all other pertinent criminal information; and,
- (iv) Police reports and transcripts or audio cassettes or interviews with the Defendant, victims and/or witnesses.
- (i) Other _____

The Defendant's Attorney shall provide the following materials necessary to complete the examination to the Designated Examiner within ten (10) business days of issuance of this order:

- (ii) A general summary of the reasons an evaluation was requested;
- (iii) Any and all available psychiatric, substance abuse, and medical records for the Defendant and other personal history information that is deemed relevant; and,
- (iv) Statements of pleas entered by the Defendant.
- (v) Other _____

Any and all requested documents from any local and government bodies and agencies shall be released to the Designated Examiner for the purpose of, and use in, the ordered examination in a timely fashion.

4. EXAMINATION REPORT

The Designated Examiner shall file a written report of the examination with the Clerk of the Court within sixty (60) days of this order. The report shall include, but is not limited to, the following pursuant to W.S. §7-11-303(c):

- (i) Detailed findings;
- (ii) An opinion as to whether the accused has a mental illness or deficiency, and its probable duration;

- (iii) An opinion as to whether the accused, as a result of mental illness or deficiency, lacks capacity to comprehend his position, to understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate with his counsel to the end that any available defense may be interposed;
- (iv) A recommendation as to whether the accused should be held in a designated facility for treatment pending determination by the court of the issue of mental fitness to proceed; and,
- (v) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should be detained in a designated facility pending further proceedings.
- (vi) Other _____

5. SUBSEQUENT EVALUATION

The Court may order a subsequent psychological evaluation to determine responsibility for criminal conduct under W.S. §7-11-304 only after the Court makes a finding that the Defendant is competent to proceed under W.S. §7-11-303.

6. CONSEQUENCES FOR VIOLATION OF COURT ORDER

Any person who willfully violates, neglects, or refuses to obey or perform this order or any provision of the Criminal Procedure Act is liable for Contempt of Court and may be fined or imprisoned in the county jail pursuant to Rule 42 of the Wyoming Rules of Criminal Procedure.

7. HEARING

A hearing will be held on _____, at _____ hour, before court official _____, or such other time as set by the court.

DATED this _____ day of _____, 20____.

Judge’s Signature

Printed Name

DISTRIBUTION BY THE CLERK OF COURT AS FOLLOWS:

- ☐ Court - original
- ☐ Prosecuting Attorney
- ☐ Defendant/counsel
- ☐ Designated Examiner/Facility
- ☐ Entity responsible for transport (if an inpatient exam)

Name of Prosecuting Attorney		Name of Defendant’s Attorney	
Phone Number	Fax Number	Phone Number	Fax Number
Address		Address	
Entity Responsible for Transport (if inpatient)		Phone Number	

STATE OF WYOMING)
Plaintiff,)
)
vs.)
)
[NAME])
Defendant.)

The above-captioned matter came before the court on the _____ day of _____, 20_____
on the motion of _____ for a hearing pursuant to W.S. §7-
11-304.

1. CHARGES

Crime	Felony or Misdemeanor	Wyo. Statute(s) Violated	Date(s) Committed

There is a question as to the Defendant's mental status at the time of the offense and subsequent criminal responsibility, due to mental illness or deficiency impacting the Defendant's "capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law" pursuant to W.S. §7-11-304(a).

Concerns regarding the Defendant's mental status at the time of the offense are related to "only those severely abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality" and do not include impairments "attributable primarily to self-induced intoxication" as defined under W.S. §6-1-202(b) or those "manifested only by repeated criminal or otherwise antisocial conduct."

Defendant is competent to stand trial and is not undergoing evaluation under W.S. §7-11-303.

1. EXAMINATION

The Defendant shall submit to an examination of his mental status at the time of the offense.

Defendant's present location _____
Address _____
Contact Information (phone, fax) _____

The Examination shall be conducted by a Designated Examiner of the Court's choosing on either an inpatient or outpatient basis. The Court "may consider proximity to the Court, availability of an examiner, and the necessity for security precautions" in its selection of the examination site, pursuant to W.S. §7-11-304(d).

Designated Institution or Examiner: _____

- ☐ Inpatient
- ☐ Outpatient
- ☐ Location to be determined by the Designated Institution or Examiner.

If the evaluation is to be conducted on an inpatient basis

- (i) The Defendant shall be held for no more than a forty-five (45) day period for the study of the mental condition of the accused, pursuant to W.S. §7-11-304(d);
- (ii) The Defendant shall be transported by the Sheriff or local law enforcement to the Facility in a timely manner upon notification from the Facility of an available bed.
- (iii) The Defendant shall be transported from the Facility by the Sheriff or local law enforcement in a timely manner after receiving notice that the examination has been completed.

If the evaluation is to be conducted on an outpatient basis, the jail or detention center, or the Defendant's Attorney, if the Defendant is out on bond, shall cooperate with the Designated Examiner in scheduling the examination and ensuring appearance of the Defendant.

2. COLLATERAL

The Prosecutor shall provide the following materials necessary to complete the examination to the Designated Examiner within ten (10) business days of issuance of this order:

- (i) A copy of the court order;
- (ii) The Defendant's name, social security number, and date of birth;
- (iii) NCIC and/or Wyoming Message Reports and all other pertinent criminal information; and,
- (iv) Police reports and transcripts or audio cassettes or interviews with the Defendant, victims and/or witnesses.
- (v) Other _____

The Defendant's Attorney shall provide the following materials necessary to complete the examination to the Designated Examiner within ten (10) business days of issuance of this order:

- (i) A general summary of the reasons an evaluation was requested;
- (ii) Any and all available psychiatric, substance abuse, and medical records for the Defendant and other personal history information that is deemed relevant; and,
- (iii) Statements of pleas entered by the Defendant.
- (iv) Other _____

Any and all requested documents from any local and government bodies and agencies shall be released to the Designated Examiner for the purpose of, and use in, the ordered examination in a timely fashion.

3. EXAMINATION REPORT

The Designated Examiner shall file a written report of the examination with the Clerk of the Court within sixty (60) days of this order. The report shall include, but is not limited to, the following pursuant to W.S. §7-11-304(f):

- (i) Detailed findings, including, but not limited to, the data and reasoning that link the opinions specified in paragraphs (ii) and (iii);
- (ii) An opinion as to whether the accused has a mental illness or deficiency, and its probable duration; and,
- (iii) An opinion as to whether at the time of the alleged criminal conduct the Defendant, as a result of mental illness or deficiency, lacked substantial capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.
- (iv) Other

4. CONSEQUENCES FOR VIOLATION OF COURT ORDER:

Any person who willfully violates, neglects, or refuses to obey or perform this order or any provision of the Criminal Procedure Act is liable for Contempt of Court and may be fined or imprisoned in the county jail pursuant to Rule 42 of the Wyoming Rules of Criminal Procedure.

5. HEARING

A hearing will be held on , at hour, before court official , or such other time as set by the court.

DATED this day of , 20.

Judge’s Signature

Printed Name

DISTRIBUTION BY THE CLERK OF COURT AS FOLLOWS:

- Court - original
- Prosecuting Attorney
- Defendant/counsel
- Designated Examiner/Facility
- Entity responsible for transport (if an inpatient exam)

Name of Prosecuting Attorney		Name of Defendant’s Attorney	
Phone Number	Fax Number	Phone Number	Fax Number
Address		Address	
Entity Responsible for Transport (if inpatient)		Phone Number	

West's Wyoming Statutes Annotated
Rules for Fees and Costs for Circuit Courts

Wyoming Circuit Courts Fees and Costs Rule 1

Rule 1. Costs and Fees in Criminal Actions

Currentness

(a) Circuit courts shall collect for every criminal/traffic charge (count) for which a conviction results unless otherwise specifically excepted by statute or court rule, costs in the sum of \$20.00 which shall be assessed as part of the sentence. In addition, for every criminal/traffic charge (count) for which a conviction results unless otherwise specifically excepted by statute or court rule, a fee of \$20.00 shall be imposed, \$10.00 of which shall be deposited into the judicial systems automation account established by [W.S. § 5-2-120](#) and \$10.00 of which shall be deposited into the indigent civil legal services account established by [W.S. § 5-2-121](#).

(b) For every ~~charge (count)~~ [case](#) the court shall impose the costs and fees provided for under paragraph (a) above, and the victim's compensation fee as required by [W.S. § 1-40-119](#), unless the court determines the defendant has an inability to pay and that no reasonable probability exists that the defendant will have an ability to pay.

Credits

[Adopted August 13, 2002, effective September 1, 2002; December 17, 2002, effective January 1, 2003; May 25, 2010, effective July 1, 2010.]

Circuit Courts Fees and Costs Rule 1, WY R CIR CTS FEES Rule 1
Current with amendments received through March 1, 2017

End of Document

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Wyoming Rules of Criminal Procedure

Rule 41. Search and Seizure

(b) Authority to issue warrant. Upon the request of the attorney for the state or a federal, state, or local peace officer, a search warrant authorized by this rule may be issued by a judicial officer. If issued by a judicial officer other than a district or circuit judge it shall be by a judicial officer for the jurisdiction wherein the property sought is located.
