

Board of Judicial Policy and Administration

Supreme Court Building, Room 237

Cheyenne, Wyoming

December 17, 2018

9:00 A.M. – NOON

Video Conference

MINUTES

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

BJPA Members Absent: Justice Kate Fox, Judge John Fenn, Judge Tom Rumpke

Others Present: Judge Timothy Day,* Judge Brian Christensen,* Patty Bennett, Clerk of the Supreme Court, Julie Goyen, Chief Information Officer, Ronda Munger, Deputy State Court Administrator, Elisa Butler, General Counsel, Eydie Trautwein, Director of Legal Resources and Judicial Education, Heather Kenworthy, IT Applications Project Manager, Cierra Hipszky, Business Manager and Lily Sharpe, State Court Administrator

**Appeared remotely via phone or video conference*

Agenda Items	
Welcome	Chief Justice Davis welcomed Board members and others present.
New Judicial Appointments	Chief Justice Davis reported the Judicial Nominating Commission has worked hard over the last six months. Recent judicial appointments include Supreme Court Justice Kari Jo Gray, District Judges Bobbi Overfield, Kerri Johnson, and Peter Froelicher and Circuit Court Judge Edward Luhm.
Legislative Update	<p>1. Joint Judiciary Committee</p> <p>The committee met in November and approved the remaining 2 bills Court Administration had presented for consideration. The bills include statutory amendments to assist implementing the new jury and case management systems. The committee also voted to sponsor 3 justice reinvestment bills. The committee added language to the reinvestment bills to ensure the circuit and district judges would continue to have discretion as to length of probation.</p> <p>There are several new members on the committee this biennium. They are: Senators Brian Boner from Douglas, R.J. Kost from Powell, Michael Von Flatern from Gillette, and Representatives Sara Burlingame from Cheyenne and Art Washut from Casper. Senator Nethercott and Representative Kirkbride have</p>

	<p>been named as chairs.</p> <p>2. Joint Appropriations Committee</p> <p>The committee met this month and approved the Judiciary's 3 exception requests to be included in the budget bill as introduced.</p>
<p>Judicial Conference Reports</p> <p><u>Circuit Conference</u> President: Judge Christensen</p> <p><u>District Conference</u> President: Judge Day</p>	<p>1. Circuit Court Conference – Judge Christensen</p> <p>Judge Christensen reported on the Circuit Court Conference winter meeting. The Conference met with several legislators in preparation for the upcoming legislative session. Judge Christensen advised that the Executive Committee reviewed the proposed change to Criminal Rule 3.1. (Appendix 1). Ronda Munger explained the impetus for the rule change came from discussions with the Highway Patrol. There can be substantial delays in filing citations with the circuit courts. One of the difficulties the delay in filing creates is the defendant's inability to pay the citation because the citation is not entered in the case management system. The attached proposal would amend Rule 3.1(a) to provide "all citations must be filed within fourteen (14) days." The Circuit Court Executive Committee questioned how the amendment would affect citations or charges involving juveniles. Since citations must go through the prosecutor as the single point of entry, 14 days may not be sufficient time. If a juvenile qualifies for a diversion program, the citation may never be filed. Chief Justice Davis suggested changing the language to state "all citations issued to adult defendants must be filed within fourteen (14) days." Judge Christensen will consult with the Conference and others as necessary on the suggested change and report back at the next BJPA meeting.</p> <p>2. District Court Conference – Judge Day</p> <p>Judge Day reported on the District Court's recent winter meeting. The Conference heard from court reporters and a pro se and legislative panel. They also had a OneDrive presentation and visited with Justice Fox.</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>Courtroom Automation Committee Updates</p> <p>1. FullCourt Enterprise (circuit and district) – Elisa Butler</p> <p>Two pilot courts have been rolled out. Natrona County was rolled out in October and Albany County was rolled out in December. The last pilot court is Carbon County. They will be trained in January and go live in February.</p> <p>The district court case management system implementation will gain momentum once the Child Welfare Piece is received. This piece allows the juvenile module to work in the manner that is needed for the district courts. A pre-release is currently being installed. The final release will be received by the end of January, which will be followed by gap sessions to identify any gaps in the system that will require customizations.</p> <p>Chief Justice Davis relayed there is a lot of pressure from prominent and attorney legislators to implement E-filing. The case management system must be in place to move forward with E-filing. The priority must be to roll out the new system to the district courts on time. Additionally, it is often forgotten that we are not</p>

<p><u>Courtroom Technology Committee</u></p> <p>Members: Chief Justice Davis (Chair), Justice Fox, Judge Sharpe, Vacant, Judge Christensen, and Judge Prokos</p>	<p>the custodians of the district court records and we have to work with the district court clerks through this process. Continual education to the legislators and the bar is essential, with the reminder there is a small staff rolling the system out.</p> <p>Judge Rogers inquired if there was timeline to pilot the district courts, and what that timeline was. Elisa responded that we currently anticipate piloting will begin in 2020. The hurdle faced will be necessary customizations to the Child Welfare Piece. Those will need to be developed by our vendor, which takes time. The hope is to identify any needed customizations during the gap session in February.</p> <p>2. Jury Management – Elisa Butler</p> <p>The new jury management system has been piloted in Laramie and Platte counties, both circuit and district courts. Both have been live for almost a year and the full statewide rollout is now underway. The first rollout group had their functional training in December in Powell. Go-live for the group will begin in January. The first rollout courts include Albany County District, and Teton, Park and Hot Springs Counties Circuit and District.</p> <p>Courtroom Technology Committee Updates – Julie Goyen</p> <p>1. Emergency Requests</p> <p>There have been four emergency requests this fiscal year for audio equipment: Albany Circuit, Fremont District, Teton Circuit, and the Wyoming Supreme Court. Albany’s equipment was installed November 5-9 and Fremont County was installed December 3-7. In early 2019, Teton County Circuit Court will receive audio system upgrades. Weston County has been making strides on their remodel and installation is tentatively set for February 4-8. The Wyoming Supreme Court is still awaiting final numbers before a determination is made.</p> <p>2. Statewide Upgrades</p> <p>The official rollout of statewide courtroom technology upgrades began in January. The first phase involves upgrading the audio systems in all remaining courtrooms statewide. The new audio systems will be integrated with the Surface Hub in the courtroom. Court Administration has entered into Memorandums of Understanding (MOUs) with the first counties to receive upgrades. They include Laramie, Big Horn, Sweetwater, and Weston Counties. An email was sent to the chairman of the respective county commissioners, closely followed by email to the impacted judges. We are currently in negotiations with Park and Hot Springs counties. The first courts to receive new equipment include Lovell, Big Horn Circuit courtroom and jury room.</p> <p>Phase II: Azure Migration Update – Julie Goyen</p> <p>The CTO continues to move applications currently housed in the Supreme Court data center into the Microsoft Azure cloud. To date, there are 4 remaining large applications to be moved. The hope is to be fully onto the cloud in early 2019 and moving towards the decommissioning of equipment in the data center.</p>
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Phase III: Hardware Refresh Update – Julie Goyen

On December 5, a Branch wide email was sent out containing status and dates of the remaining rollouts. Those dates are listed below:

Recently Installed

- JD-2 Albany District & Circuit: November 5 – 6; and
- JD-1 Cheyenne District Chambers: November 19 – 20.
- 2019 Scheduled Installations
- JD-2 Rawlins: January 14 – 15;
- JD-1 Cheyenne Circuit: February 4 – 8; and
- JD-7 Casper District & Circuit: March 22 – 25.

2019 Projected Installations

- JD-8 Torrington Circuit: Projected March;
- JD-8 Wheatland Circuit: Projected April;
- JD-8 Douglas District & Circuit: Projected May; and
- JD-3 Evanston & Kemmerer District: Projected May.

Those courts listed on the projected installations will be receiving a call from CTO staff to begin the scheduling process.

Safeguarding Passwords – Julie Goyen

In late 2018 an incident occurred at a courthouse within the State. This incident was outlined in a December 3 email to the Branch discussing the importance of protecting passwords. The CTO reiterates that protecting passwords is of utmost importance. Passwords are the first line of defense for the network. In areas where changing passwords creates obstacles in business processes, the CTO will work to find safe solutions.

Security Awareness Training – Julie Goyen

In 2018 the CTO identified the Branch is required to undergo security awareness training according to Payment Card Industry (PCI) standards. During the first week of October, the first security awareness training module was released to the Branch. Since then, 3 more modules have been released. To date the overall security sentiment of the Branch is very optimistic. For all 3 modules, the completion rate is 83% with 75% of participants responding currently. Unfortunately, there are still a considerable number of employees not participating. If you or anyone in your office has not completed the training, *please encourage them to do so*. The training modules are short and humorous. They are released the first Wednesday of the month and run about 3-4 minutes in duration. It takes all employees, including judges and staff, to make our network secure.

	<p>Staff Updates – Julie Goyen</p> <p>Since our last meeting, 3 new staff members have joined the CTO office. All are working on FullCourt Enterprise and will assist with training and rollout. The new members are Chance Walkama, Nicole Hatfield, and Debbie Meyer. Two of the names you may recognize, since Nicole and Debbie are former circuit court chief clerks in Douglas and Casper, respectively. Chance comes to us with a law enforcement background. While not part of the CTO, Brittany Leasure is the new Internal Auditor and will be participating with the FullCourt Enterprise rollout. All are currently getting up to speed on the FullCourt Enterprise application.</p> <p>There is a current vacancy for a Database Administrator/Business Analyst. Interviews are scheduled.</p>
<p>Permanent Rules Advisory Committee (PRAC)</p> <p><u>Appellate Division</u></p> <p>Judicial Members: Justice Boomgaarden, Judge Fenn</p> <p><u>Civil Division</u></p> <p>Judicial Members: Justice Fox (Chair), Judge Castano, Judge Kricken, Judge Rumpke</p> <p><u>Criminal Division</u></p> <p>Judicial Members: Judge Edelman (Chair), Judge Arp</p> <p><u>Evidence Division</u></p> <p>Judicial Members: Judge Rumpke (Chair), Judge Nau, Judge Radda</p> <p><u>Juvenile Division</u></p> <p>Judicial Members: Judge Wilking (Chair), Justice Kautz, Judge Campbell, Judge Fenn</p>	<p>Appellate Rules Update – Justice Boomgaarden and Patty Bennett</p> <p>The most recent rule change dealt with the length of briefs. Appellate Procedure Rule 7.05 limits principal briefs to 60 pages and reply briefs 18 pages. There has been some interest in requirements for brief formatting and the way the record is cited. A rule may be added in the future to create uniformity regarding citations in the briefs.</p> <p>Civil Rules Update – Judge Rumpke and Patty Bennett</p> <p>The rules committee considered all comments for Rule 40.1(b) for peremptory disqualification of a judge. The attached proposed changes create timelines for filing of a motion to disqualify by the plaintiff or defendant. (Appendix 2) If the motion is granted the district court judge has the ability to conduct the hearing by video conference. A question arose as to the language in Rule 40.1(1)(I), which reads “Unless otherwise ordered by the newly assigned District Judge, all proceedings, except the final trial on the merits, shall be conducted by telephone or videoconference.” The language was added to ease concern that disqualifications could deplete the judge’s budget. Chief Justice Davis noted there may be instances in which the judge would not be permitted to appear via video or telephonic conference and those situations need to be considered. The members were asked to take the attached proposal back to their Conferences to be reviewed and report back to the BJPA at the next meeting.</p> <p>Criminal Rules Update – Judge Edelman and Patty Bennett</p> <p>No update.</p> <p>Rules of Evidence Update – Judge Rumpke and Patty Bennett</p> <p>No update.</p> <p>Juvenile Rules Update – Judge Wilking and Patty Bennett</p> <p>No update.</p>

<p>Judicial Salaries Committee</p> <p>Members: Justice Fox (Chair), Chief Justice Davis, Judge Fenn, Judge Rogers, Judge Bartlett, Judge Christensen</p>	<p>1. Update – Judge Day</p> <p>Legislators who visited with the District Judges during their meeting were supportive of a pay raise. Judge Day has been in contact with the Governor Elect’s office to schedule a time to meet. Additionally, Judges Day, Christensen and Roberts are scheduled to meet with Senator Bebout. Judge Christensen is planning to speak to Senator Perkins today regarding the drafting of the bill.</p> <p>Chief Justice Davis clarified the Judicial Salaries Memo (Appendix 3) indicated it was from him; however, it is the hard work of the Judicial Salaries Committee.</p>
<p>Access to Justice Commission</p>	<p>1. Update – Justice Boomgaarden</p> <p>The Commission has been working on reappointments and new appointments. All circuit court and district court judges that had expiring terms have agreed to serve another term. New legislative members are the joint chairs of the Judiciary Committee, Senator Nethercott and Representative Kirkbride.</p> <p>Work with Legal Aid of Wyoming will begin at the first of the year to select a vendor in response to an RFP to conduct a Civil Services Legal Needs Assessment across the State. The Assessment will be conducted in collaboration with all the legal services providers throughout the State.</p>
<p>Court Security Update</p>	<p>1. Update – Justice Kautz and Ronda Munger</p> <p>The Legislature appropriated \$400,000 in 2018 to the Supreme Court for court security improvements. There were 7 counties that had assessments in 2016. All of the 7 counties applied for funding. Those counties are: Carbon, Converse, Hot Springs, Lincoln, Sheridan, Uinta and Washakie. To date, \$384,000 has been awarded.</p>
<p>Pretrial Release Issues</p>	<p>1. Legislative Interim Work – Judges Christensen, Haws, and Roberts and Patty Bennett</p> <p>Judge Roberts reported on continuing work to promote evidence based setting of bonds. Most circuit judges are currently using some sort of questionnaire or form to obtain information about the defendant, particularly when setting bonds or reviewing bonds set over the weekend. Wyoming Rule of Criminal Procedure 46.1(a)(1) indicates the inmate is allowed to ask for bond and “No particular form of request for pretrial release shall be required and the request may be hand-written.” Judge Roberts suggested the rule should be modified to allow judges to provide the defendant a form to complete. The form should include basic questions for the defendant, with a statement indicating information regarding the charge should not be included on the form. A form would benefit defendants who often provide written confessions with their pretrial release requests. Allowing judges to provide a form would be an interim solution until a uniform form is created. Judge Haws observed other states have created a type of score sheet for judges to use.</p> <p>Patty Bennett requested the final version of the rule draft be emailed to her and she will route the draft to the Criminal Rules Division for review.</p>

Revision to BJPA Policy	<p>1. Policy on Executing an Oath of Office – Patty Bennett</p> <p>Patty Bennett proposed an amendment to the attached BJPA policy on oaths. (Attachment 4). The amendment clarifies the Supreme Court Clerk’s Office is to receive a <i>copy</i> of the oath of office. The amendment is necessary because there are times when the Supreme Court Clerk's Office receives the originals of the oath. Ronda Munger suggested including language clarifying that judges must take an oath when first appointed to office and after each retention election. Patty will finalize the amendment for review.</p>
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Action items:	
1. Judge Christensen will request the Circuit Court Conference and others as necessary to review amending Criminal Rule 3.1 Use of citations; bail to provide “all citations issued to adult defendants must be filed within fourteen (14) days.”	
2. Judge Christensen and Judge Day will ask their Conferences to review the attached changes to Civil Rule 40.1(b) on disqualification of judges and report back regarding whether the added language in Rule 40.1(b)(1)(I) is appropriate since there may be instances in which the judge would not be permitted to appear via video or telephonic conference. The language states, “Unless otherwise ordered by the newly assigned District Judge, all proceedings, except the final trial on the merits, shall be conducted by telephone or videoconference.”	
3. Patty Bennett will provide language amending the BJPA Oath policy.	
4. Judge Roberts, Haws and Christensen will email Patty Bennett their proposed amendment to Criminal Procedure Rule 46.1(a)(1) and Patty will forward it to the Criminal Rules Division for consideration.	

Action taken by Board:	None

Schedule of Future Events	<p>2019 BJPA Meetings</p> <p>March 11, 2019</p> <p>June 17, 2019</p> <p>September 16, 2019</p> <p>December 16, 2019</p>

Appendix 1: Proposed Amendment to Wyoming Rule of Criminal Procedure 3.1. Use of citations; bail.

Appendix 2: Proposed Amendment Wyoming Rule of Civil Procedure 40.1(b). Transfer of trial and change of judge.

Appendix 3: Judicial Salaries Memorandum

Appendix 4: Proposed Amendment to BJPA Oath Policy.

Attachments are highlighted

Approved on March 8, 2019

West's Wyoming Statutes Annotated

Wyoming Rules of Criminal Procedure

Wyoming Rules of Criminal Procedure, W.R. Cr. P. Rule 3.1

Rule 3.1. Use of Citations; Bail

Currentness

(a) **Where and when filed.** Citations shall be filed in the circuit court or municipal court in the county or municipality where the offense allegedly occurred. All citations must be filed within fourteen (14) days of issuance and delivery of the citation to the defendant.

(b) **When Citation May Issue.** A person arrested and taken into custody for any crime shall be brought before a judicial officer as provided in [Rule 5](#), except:

(1) A person who has been stopped, detained or arrested for a misdemeanor may, then or after further investigation, be issued a citation to avoid further detention. If the person to whom the citation is issued accepts the citation (thereby signifying his promise to appear in court on a date and time certain to answer to the offense charged in the citation), the person shall then be released from custody; and

(2) A person arrested and taken into custody for a 'forfeit' offense (as later defined in this rule) must be taken before a judicial officer within 12 hours. If the person is not taken before a judicial officer within 12 hours, the person must be issued a citation and released from custody, but only if the person signs a promise to appear in court on a date and time certain to answer to the offense charged in the citation. A judicial officer may, but is not required to, hold an initial appearance hearing for forfeit offenses other than during the regular business hours of the court.

(c) **Appearance in Court.** The peace officer issuing the citation shall specify on the citation the name and address of the court in which the citation will be filed and a date and time when the person cited must appear in that court. The time specified must be at least five days after the alleged violation unless the person cited consents to an earlier hearing. A person to whom a citation has issued must appear on the day and at the time and place specified in the citation, unless:

(1) The appearance is continued or excused by a judicial officer of that court; or

(2) The citing officer checks the box "MAY FORFEIT BOND IN LIEU OF APPEARANCE" on the citation.

(d) Payment of Fines and Costs or Forfeiture of Bail in Lieu of Appearance. A citing officer may require any person to appear in court on a date and time certain to answer to the offense charged in the citation by checking the “MUST APPEAR” box on the citation. If the citing officer checks the “MAY FORFEIT BOND IN LIEU OF APPEARANCE” box on the citation the offense may be dealt with as follows:

(1) A person may satisfy a promise to appear in court by paying to the court, or to another authorized by that court to accept bond for misdemeanor offenses, on or before the appearance date the amount of the fine and court costs as listed on the uniform bail schedules adopted and published by the Wyoming Supreme Court and set forth in [Appendix I](#) to this rule;¹

(2) By paying fines and costs into court (by mail or otherwise) or, when permitted, by posting bond and failing to appear as promised a person elects:

(A) To waive appearance before the court;

(B) To waive a trial; and

(C) Not to contest the offense charged (nolo contendere).

(e) Warrant for Failure to Appear. The court may issue a warrant for the arrest of any person who fails to appear as ordered by the court. The court may also issue a warrant for any person who fails to appear as promised:

(1) When “MUST APPEAR” is checked on the citation; or

(2) When the person fails to pay the fine and costs to the court (or post bond in lieu thereof) prior to the promised appearance date when “MAY FORFEIT BOND IN LIEU OF APPEARANCE” is checked on the citation.

(f) Disposition of Citations. Every citation filed or deposited with the court must be accounted for and disposed of by that court. Disposition may include forfeiture of bail.

(g) Definitions.

(1) “Forfeit offenses” are those misdemeanor offenses listed as forfeit offenses on the uniform bail schedules adopted and promulgated by the Wyoming Supreme Court and set forth in [Appendix I](#) to this rule.¹ A citing officer may not check the box “MAY FORFEIT BOND IN LIEU OF APPEARANCE” on the citation for any offense other than a forfeit offense; and

(2) “Must appear offenses” are those misdemeanor offenses for which a citation has issued and the citing officer has checked the “MUST APPEAR” box on the citation.

Credits

[Amended June 30, 2000, effective July 1, 2000; December 2, 2002, effective January 6, 2003; May 18, 2011, effective July 18, 2011.]

Footnotes

¹

See Rule 3.1, [App. 1](#).

Rules Crim. Proc., Rule 3.1, WY R RCRP Rule 3.1
Current with amendments received through November 1, 2018

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Rule 40.1. Transfer of trial and change of judge.

(b) Change of Judge. —

(1) Peremptory Disqualification. —

(A) *Motion*. — A party may peremptorily disqualify a district judge from acting in a case by filing a motion to disqualify the assigned judge.

(B) *Time for Filing Motion by Plaintiff*. The motion shall be filed no later than fourteen (14) days after:

- (i) the entry of a notice assigning the judge as described in sub-section (H) or
- (ii) the entry of an order re-assigning the matter to another judge following the filing of a motion by a defendant under sub-section (b)(1)(C), whichever occurs later.

(C) *Time for Filing Motion by Defendant*. The motion shall be filed no later than:

- (i) The time of filing defendant's first responsive pleading or WRCP 12 motion; or
- (ii) Fourteen (14) days after the entry of an order re-assigning the matter to another judge following the filing of a motion by a plaintiff under sub-section (b)(1)(B) or by a co-defendant under sub-section (b)(1)(C), which ever occurs later.

(D) *Parties Added Later*. One added as a party to an action after the filing of the first responsive pleading or WRCP 12 motion by a defendant cannot peremptorily disqualify a judge.

(E) *Subsequent Motions or Additional Claims*. No party may move to disqualify a judge peremptorily upon the filing of any additional claims, whether counterclaims, crossclaims, or otherwise, or upon subsequent motions filed in the same docket number.

(F) *One Time Challenge*. In any matter, a party may exercise the peremptory disqualification only one time and against only one judge.

(G) *Criminal and Juvenile Proceedings*. This rule, and the procedures set forth herein, shall not apply to criminal cases or proceedings in juvenile court.

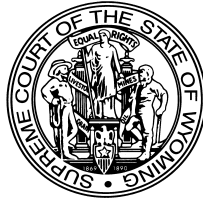
(H) *Initial Notice of Assignment*. No later than five (5) days after a complaint is filed, the clerk of court shall enter a notice of assignment of judge.

(I) *Conduct of Proceedings*. Unless otherwise ordered by the newly assigned District Judge, all proceedings, except for final trial on the merits, shall be conducted by telephone or videoconference.

Advisory Notes: Subsection (E) clarifies that parties may not peremptorily disqualify a judge after the judge has already made any decision in the case. *In the Matter of Estate of Meeker*, the Supreme Court held that a party making a will contest could disqualify a judge under the rule because the will contest was a separate action from the pending probate matter. *Meeker*, 2017 WY 75, ¶ 19, 397 P.3d 183, 188 (Wyo. 2017). The Wyoming Supreme Court has also held that a custody modification petition, even though filed under the same docket number as the original divorce action, “is considered a separate and distinct proceeding.” *Goss v. Goss*, 780 P.2d 306, 310 (Wyo. 1989). However, in denying a petition for review, the Wyoming Supreme Court in *Hendrickson v. Casey*, Case No. 02-140, held that a party to a modification petition could not peremptorily disqualify the judge who heard the initial custody case because the judge had “presided over prior modification proceedings.” Subsection (E) clarifies that a party may not seek a different judge when seeking to modify an order entered by a judge who had not been disqualified at the start of the case.

Although this Rule does not apply to Criminal and Juvenile proceedings, it does apply to all other original proceedings before the District Courts whether initiated by a “Petitioner,” a “Movant,” or otherwise.

THE SUPREME COURT OF WYOMING



MEMORANDUM

DATE: August 27, 2018

TO: Supreme Court Justices, District Court Judges, and Circuit Court Judges

FROM: Chief Justice Davis

RE: Judicial Salaries

Wyoming judicial salaries once again risk lagging behind judicial pay in neighboring states and comparable jobs within Wyoming state government. While recognizing that a judicial position is a public service, fair compensation remains important in order to continue to attract qualified applicants. Instead of waiting until judicial pay is so embarrassing that the need for a raise cries out and a big increase is required, we propose a smaller increase in the near future to achieve judicial pay equity, with built-in increases in the future so that pay equity is maintained.

The Board of Judicial Policy and Administration (BJPA) has studied current judicial salaries as compared to salaries for other Wyoming-leadership positions and the judicial salaries of surrounding states. It is apparent that a judicial salary increase is required to ensure that judicial officers are comparatively compensated to executive branch employees, to ensure that experienced and qualified attorneys will seek to fill judicial vacancies, and to account for cost of living increases. The last salary increase for judges was in July 2012 for Supreme Court justices and District Court judges and in July 2017 for Circuit Court judges (that 2017 increase for Circuit Court judges was largely for the purpose of compensating them for the lesser increase they received in 2012). Supreme Court justices are now paid \$165,000, district court judges \$150,000, and Circuit Court judges \$125,000.

The legislature has recognized the need to maintain state employee salaries at a competitive level in recent years, and granted them raises and/or bonuses. Specifically, in 2013, eligible employees received a one-time 1% Retention Incentive Increase, with the maximum payment not to exceed \$1,200. In 2014, eligible employees received pay

increases ranging from 1.25% to a maximum of 4.75%, with an average increase of 2.38%. Finally, in 2015, eligible employees received pay increases ranging from 1.102% to a maximum of 5.352%, with an average increase of 2.934%. Assuming justices and judges would have been eligible for these raises and that each would have received the average increase in 2014 and 2015, judicial raises would have been as follows:

	2013	2014	2015
Circuit Court	\$1,190.00	\$121,832.20	\$125,406.76
Circuit Court*	\$1,200.00	\$127,975.00	\$131,729.79
District Court	\$1,200.00	\$153,570.00	\$158,075.74
Supreme Court	\$1,200.00	\$168,927.00	\$173,883.32

*Assuming Circuit Court judges had received the requested \$125,000 increase in 2012.

Supreme Court justice salaries in neighboring states range from highs in Utah (\$182,950¹), Colorado (\$182,671 for associate justices and \$186,656 for the chief justice), and Nebraska (\$176,299²), to lows in Montana (\$144,061) and South Dakota (\$136,893). Wyoming Supreme Court justice pay ranks 31st in the nation in a July 1, 2018 survey by the National Center for State Courts. Neighboring states' lower court judges are paid as follows:

Colorado District Court - \$168,202

Nebraska District Court - \$163,076³

Utah District Court - \$166,300⁴

Montana District Court - \$132,558

South Dakota District Court - \$127,862

In states with court structures comparable to our Circuit Court system, the pay for those judges is:

Colorado County Court - \$160,966

Nebraska County Court - \$158,669⁵

It is also instructive to look at the salaries for leadership positions comparable to District Court judges' positions in Wyoming communities, such as hospital CEOs and school district superintendents.

¹ Beginning July 1, 2019

² Beginning January 1, 2019

³ Beginning January 1, 2019

⁴ Beginning July 1, 2019

⁵ Beginning January 1, 2019

1st Judicial District

CEO of Cheyenne Regional Medical Center - \$456,181 (2015-2016)

Superintendent of Laramie County School District #1 - \$180,000

2nd Judicial District

CEO of Ivins Memorial Hospital - \$250,000 (2006)

Superintendent of Albany County School District #1 - \$179,000

3rd Judicial District

CEO of Memorial Hospital of Sweetwater County - \$350,000 (2015)

Superintendent of Sweetwater County School District #1 - \$167,250

4th Judicial District

CEO of Sheridan Memorial Hospital - \$244,391(not verified, hospital refused to give information)

Superintendent of Sheridan County School District #2 - \$198,000 (2015-2016)

5th Judicial District

CEO of Cody Regional Health - \$260,928 (not verified)

Superintendent of Park County School District #6 - \$165,000

6th Judicial District

CEO of Campbell County Health - \$510,000 (including bonus)

Superintendent of Campbell County School District #1 - \$185,000

7th Judicial District

CEO of Wyoming Medical Center - \$580,000 (2015)

Superintendent of Natrona County School District #1 - \$190,875

8th Judicial District

CEO of Memorial Hospital of Converse County - \$300,000 (2011)

Superintendent of Converse County School District #2 - \$120,000

9th Judicial District

CEO of St. John's Medical Center - \$425,000 (2015-2016)

Superintendent of Fremont County School District #25 - \$157,218

In addition, many executive branch employees are paid substantially more than any state judge. As of May 2017, the following salaries exceed those paid to Supreme Court justices:

Administration & Information, EXMT08 - \$165,000

Wyoming Community College Commission, EXMT03 - \$168,600

Governor's Office (& Office of Homeland Security), EXMT08 - \$174,999

Attorney General, EXMT08 - \$174,999

Wyoming Retirement, EXMT03 - \$189,000

Wyoming Retirement, EXMT03 - \$189,000

Department of Health, EXMT02 - \$200,004

Department of Health, EXMT08 - \$202,951

Wyoming Retirement, EXMT06 - \$231,999

Wyoming Retirement, EXMT08 - \$231,999

State Treasurer's Office, EXMT03 - \$249,999

Department of Health, EXMT02 - \$250,003

There are currently 54 executive branch employees who make more than a Circuit Court judge and 24 who make as much or more than a District Court judge.

While there is not a direct comparison between duties and responsibilities of school, hospital, executive and judicial officers, the above salaries can provide some benchmark. Judges do not supervise large numbers of employees or manage budgets as large as some of the listed positions, but it is a judge's responsibility to review, when requested, decisions made by all executive branch officers and to order compliance with the law as established by the constitution and statutes. Additionally, justices and judges must have knowledge of the law, problem-solving abilities, and accountability—three of the Hay Group job ranking elements. If the Average and Median Statewide Pay Rates by Classification table from April 2018 is used as a guide, it would stand to reason that the position of a Wyoming Supreme Court justice, the highest paid position in the judicial branch, should be classified as Executive Management 8 position (EXMT08), providing an average monthly salary of \$15,360.44, which equates to an average annual salary of \$184,325.28.

Not only is the Wyoming judiciary being paid less than justices and judges in some neighboring states and other leadership positions in Wyoming, but the judiciary is also losing ground with respect to the private marketplace for attorneys. According to a 2017

Wyoming State Bar survey, 20% of Wyoming attorneys made more than \$150,000, with 8% earning more than \$250,000. Although data is not collected concerning the income of judicial applicants, we know that most newly appointed judges come from higher income brackets, as these attorneys are among the more experienced and proficient of the bar, and as a result, incur a substantial decrease in pay to join the judiciary.

Judicial salaries will determine, in part, the caliber of applicants we can expect for judicial openings. Over the course of the next 10 years, 17 of the 28 District Court judges and Supreme Court justices will face mandatory retirement. Additionally, although there is no mandatory retirement age for Circuit Court judges, if we assume a retirement age of 70, 14 of the 24 Circuit Court judges will retire as well. If a salary increase is not granted, we can anticipate that the quality and number of applicants for these vacancies will decrease. We have already seen a decline in the number of applicants for judicial vacancies. Since 2010, we have seen applicant numbers range from a high of 23 to a low of 6 for judicial vacancies, compared to early in the 1990's when it was not uncommon to receive over 30 applicants for District Court positions.

The need for a salary increase across the judiciary is abundantly clear, as evidenced by higher salaries for comparable positions in our own state, higher judicial salaries in many neighboring states, and the need to ensure the ability to continue to attract qualified and proficient members of the Wyoming bar to fill judicial vacancies. Without a regular system of maintaining pay equity, Wyoming's courts will be susceptible to unqualified applicants, and a potential loss of confidence in our judicial system.

We have not yet determined whether this is the year to make a big push for pay raises, but, at the very least, all judges ought to be talking to their local legislators to educate them on this issue. For now, our working "ask" is a salary of \$180,000 for Supreme Court justices; \$165,000 for District Court judges; and \$150,000 for Circuit Court judges. We do not have a precise proposal for maintaining pay equity on a regular basis at this time.

Board of Judicial Policy and Administration
Policy on Executing an Oath of Office

A. GENERAL POLICY:

It is the policy of the Board of Judicial Policy and Administration that any newly retained judicial officer shall execute an oath of office.

B. FILING OATH OF OFFICE:

A Supreme Court Justice shall file his or her oath of office with the Secretary of State and the Clerk of the Supreme Court. A District Judge, Circuit Court Judge, and a Circuit Court Magistrate shall file his or her oath of office with the office of the County Clerk of the county in which the oath was taken and a copy with the Clerk of the Supreme Court.

Dated this _____ day of December, 2018.

Board of Judicial Policy and Administration

By: _____
Chief Justice Michael K. Davis