

Access to Justice Commission
Minutes
March 11, 2010

The Access to Justice Commission met at the Supreme Court Building on March 11, 2010. Those attending in person were Justice Jim Burke, Larry Wolfe, Dona Playton, Denise Burke, Sleeter Dover, Leigh Anne Manlove, Rennie Polidora, Representative Mary Throne, Senator Tony Ross, Chief Justice Bart Voigt, Joann Odendahl, Ronda Munger and Becky Craig; those attending by video were Justice Marilyn Kite, Judge Timothy Day, Dan Fleck and Mark Aronowitz; and those attending by conference call were Amanda Roberts and Rick Lavery.

Opening Remarks

Justice Burke opened the meeting by summarizing the work that the Commission has done to this point and the successful passage of the Legal Services Funding Bill.

Wyoming State Bar Update

Sleeter Dover, Executive Director of the Wyoming State Bar, discussed the work that the Pro Se Pro Bono Task Force has been conducting. The Board will consider the Task Force's recommendations at their April meeting. Their recommendations have included the opinion that a group of attorneys, or the Task Force itself, should review, revise and automate the pro se forms. Additional grant monies are available for the revision of forms, and application would have to be made. They have also recommended that the pro bono rules be revised to reflect whether or not reporting should be mandatory, but it is felt that, if mandatory, a penalty should not be imposed. They have also decided that an emeritus status should be established in the Commission's Bylaws, as there are senior attorneys who would like to be involved. The Idaho rules and regulations are being reviewed as a model. They recommend maximizing the use of technology. There is \$37,000 available through the Legal Services Corporation (LSC) for establishing a website, and the Program could access those monies since it is not required that it be a provider who uses the funds. A website currently exists (Wyominglawhelp.org) which could be adapted for the program, and there is no monthly fee for its use. Sleeter will be drafting a memo containing the Task Force's recommendations prior to the April meeting and will send a copy to the Commission.

Justice Burke commended the Wyoming State Bar for the position that it took on the Legal Services Funding Bill, stating that they showed real leadership.

Service Provider Update

Dona Playton, Assistant Faculty Supervisor for the UW Legal Services Programs, explained that the clinics at the Law School are successfully processing cases. The Wyoming Coalition, consisting of two attorneys and a paralegal, has been covering the state. Their funds have been cut substantially, however, the balance from their grant's last cycle carried over, allowing them to keep the paralegal position through May, 2011. They currently

have cases going on in eleven counties, and have been seeing many more contested cases that are progressing to trial. Since there are no funds available to conduct depositions, interrogatories are being used instead. Most of the judges are allowing counsel to appear by phone or to partner with other attorneys who donate their time. There are also no funds available for expert witnesses, and some judges are ordering GAL's and having the defendants pay the fees. Clients are having to pay the filing fees, service fees, court reporter fees, fees for medical and courts records, i.e. most of the fees other than attorney fees.

Larry Wolfe advised that there will be a Legal Aid of Wyoming meeting in Denver on March 29, 2010, for the purpose of reviewing the progress made to date. The Board is in need of more members as it presently only consists of five people. There are 27 attorney volunteers at this time. Julie Hernandez is currently handling all of the legal services for Cheyenne. An intake process has been established and clients are being seen.

Discussion was held on the law school component needing to be analyzed and incorporated into the AJC Program. While John Burman's clinic is paid for through law school funds, the IOLTA grant funds have been very helpful for Dona's clinic, which handles more of the domestic violence cases than Burman's clinic handles. The grad assistantship has taken a large hit due to the cut in funding from the University. The student directors' funding could possibly be helped by the AJC. Denise Burke noted that the law students now need to do a 20 hour "return of service" component which can be accomplished in many ways, and that possibly the AJC internship could be a permanent slot. Two areas where additional clinics are needed is in legislation and elders and wills. Discussion was held on another student assistant position being created if there is an interest, however, students are not presently required to participate in a clinic. Credit hour requirements are currently being re-evaluated in the curriculum.

Message from Chief Justice Voigt

Chief Justice Voigt spoke of the number of lawyers, themselves, that might not be able to afford representation, due, in part, to the fact that the rules of discovery have gotten so expensive and cumbersome. He noted that mediation and arbitration seem to be used more since they are cheaper than taking cases to court, and private juries or retired judges are being utilized in order to save money. The process needs to be fixed so that the increased availability of attorneys will work with the system. He suggested that possibly limited discovery rules could be established for cases below a certain level, and that there is a need to look at amending the Rules of Civil Procedure so that the courts can expedite the entire process; his hope being that this can be handled through a court rule rather than by creation of a statute. It was suggested by the group that this could be a topic for the Joint Judiciary Interim Committee or the Permanent Rules Advisory Committee. Chief Justice Voigt commended the Legislature for the work they did on the Bill and for trusting the people involved in creating the program.

Justice Burke thanked Chief Justice Voigt for referring favorably to the Legal Services Bill and the AJC in his State of the Judiciary Statement.

Executive Branch Report

Leigh Anne Manlove provided an update on the work in the Governor's Office. She told the AJC that the signing ceremony was set for that afternoon, and that the Governor was likely to give the bill sponsors and the AJC an opportunity to make public comment. The AJC also discussed the letter that the Governor received from the Wyoming Tea Party. Justice Burke asked Leigh Anne to be sure to thank the Governor for his support on HB61.

Wyoming State Bar Foundation Update

Stuart Day provided an update on the work of the State Bar Foundation. Stuart reasserted the Foundation's willingness to participate in the interim or permanently as the non-profit organization for the civil legal services program. Stuart told the AJC that the Foundation's work has been on hold, waiting to see what role it will play in this new program. He also reported that First Interstate Bank has increased the interest that the Foundation receives for IOLTA funds, and he offered that some of those funds could possibly be used to hire the point person or executive director in the interim. Justice Burke complimented Stuart on his work and stated how fortunate the AJC has been to have him involved as President of the Foundation during the passage of this historic legislation.

Next Steps

Larry Wolfe distributed his outline of issues that need to be considered. The funds will begin accruing on July 1, 2010. The Resource Development Working Group and Delivery System Working Group were successful, and new working groups now need to be established, i.e. a Law School Working Group and a Technology Working Group. The Technology Working Group could be under the umbrella of the Law School or the Commission and could handle development of the website, social media links and automated forms. There is currently \$30,000 available for the website through Legal Aid of Wyoming. The program needs to be organized as if it was a business, with a specific fund and a strategy on how to use money from outside sources. The funds that have accrued at the end of July, 2010 will go to Court Services and will then be deposited with the State Treasurer by approximately August 12, 2010. There may be enough funds in the account in September, 2010 to pay for an Executive Director. The first report to the Legislature is due by November, 2010, and should contain an outline of the programs that are in place and should detail how much has been collected to date. An August or September board meeting will be needed. The program can spend up to 3 million during the biennium, with any excess monies to remain in the fund. Larry detailed a chart showing an interim plan:

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Technology	Law School	Rules	Stakeholder	Organization	Administration
a) website			Meetings	Non-profit	Staffing
b) revise pro se forms				formed	Hiring
c) social media				Board	Auditing
					Reporting
					Fiscal Control
					Granting Requirements

A Stakeholder Meeting will need to be scheduled, however, that may not be possible until staff and funding are in place. Legislators and attorneys should be invited to the meeting.

Justice Burke spoke about the need for there to be a legal services provider in every district, and that the different coalitions or entities will hopefully not be overlapping and working on the same cases. He recommended that the attorneys be hired as contract attorneys and not on an hourly basis. Other providers that already exist should be an integral part of the access to justice program, but with the AJC being the coordinator and facilitator.

A determination needs to be made on whether to set up a new non-profit or whether to utilize the Wyoming Bar Foundation. Lengthy discussion was held on this matter.

Stuart Day called the question. Senator Tony Ross moved and Sleeter Dover seconded a motion to form a new non-profit entity rather than using the Wyoming Bar Foundation. The vote was ultimately tabled and a telephone conference will be scheduled at a future date.

Meeting adjourned.