

**Access to Justice Commission
Friday July 23, 2010, Casper**

The Wyoming Access to Justice Commission held a meeting on July 23, 2010, in Casper, Wyoming. Those who attended in person were: Chief Justice Marilyn Kite, Justice Jim Burke, Judge Wesley Roberts, Larry Wolfe, Walter Eggers, Denise Burke, Dona Playton, Dan Fleck, Ronda Munger, Joann Odendahl, Amanda Roberts, Stuart Day, Gen Tuma, Tammy Hudson, Amanda Brodie, Amy Smith, Jim Bamberger and Rennie Polidora. Those who attended by phone were: Ray Macchia and Rick Lavery.

Meeting officially began at 10:00 a.m.

Justice Burke opened the meeting and had everyone around the room introduce themselves because there were several "guests" who are not members of the Commission. The primary purpose of the meeting was to have a work session, facilitated by Jim Bamberger of the Washington Office of Civil Legal Aid, in which the role of the newly founded Wyoming Center for Legal Aid would be discussed in relation to the existing current civil legal service providers in the state.

Discussion of the Statement of Core Values for the WY Access to Justice Commission

The group divided into four small working groups to review, discuss and amend a draft statement of the core values that will guide future decisions made by the Commission as it establishes its statewide delivery system for providing civil legal services to the poor. After about thirty minutes the large group re-convened to compare suggested changes.

There was much discussion among everyone, but the overall consensus was that the statement of core values needs to be Wyoming-focused and reflect the uniqueness of the state's geography and population demographics. The first five statements in the draft were thought to be more philosophical and general, while the last five statements were more specific and detailed.

Jim Bamberger commented that these are not merely philosophical statements, rather they are benchmarks in which the Commission will test itself over and over again in the future. Without the expectations created by the core values, the process for creating a statewide system will be done on an ad hoc basis.

There was some confusion as to whether these are core values for the ATJ Commission or the new Wyoming Center for Legal Aid. It was clarified that these are statements that will create the foundation for the Commission because it will address all Wyoming citizens and the various barriers that impede access to justice, not just economic. The Wyoming Center for Legal Aid and House Bill 61 focus on indigent citizens and their need for access to justice; however, the long-term mission of the Commission will be broader in scope.

There was some discussion as to whether or not we even need to establish a statement of core values. Judge Roberts summed up the debate by saying that "we are creating the conscience of the Commission" because the values are what the Commission will return to over and over again when making important decisions in the future.

A subcommittee was created to revise the draft statement based on each group's suggestions. The subcommittee members are Judge Roberts, Walter Eggers, Dan Fleck, Dona Playton and Rennie Polidora.

Continuum of Civil Legal Aid Services

To have a statewide, comprehensive delivery system it is essential to include all the "players" that provide civil legal services throughout the state. A totality of the needs must be presented; for example, 50% of low-income people do not know they have a legal problem and they do not know their rights.

The group discussed whether or not other players in the state have to accept the Commission's statement of core values and whether or not they have to participate in the statewide system. The argument is that once being part of the system becomes a "culture of expectation" from the Supreme Court then the lone players will not succeed.

There was the suggestion that players who want access to state funds should have to agree to the core values and be a part of the statewide system. The consequence to this would be enforcing the rule. No decision was made as to whether or not the Commission should affirmatively express that civil legal service providers agree to accept the core values.

Next there was a brief overview of what current providers are doing in Wyoming.

Ray Macchia from Legal Aid of Wyoming (the LSC provider) discussed how his budget of \$780,000 is used. He has four offices: Cheyenne, Lander, Casper and the Wind River Indian Reservation. Most of his cases are domestic issues such as divorce, custody and working with child support services. He has some landlord/tenant cases. Through his Senior Grant from LSC he is able to help with Elder Law issues and there are no financial requirements for Seniors. He estimates that he has helped about 800 people through letters and correspondence. About 5% of his cases require direct legal representation.

One significant barrier that Ray has dealt with is the fact that tribal members prefer meeting face to face, as opposed to going through the central intake phone system.

Dona Playton presented information on the two UW Legal Clinics (Legal Services & DV). Under Rule 12, third-year law students can represent indigent clients.

Cases handled by the Legal Services Clinic include GAL work, parent representation, social security, immigration, divorce, post-decree modifications and appeals. It is difficult to have many cases that are geographically far away.

The DV Clinic works closely with the WY Coalition and Domestic Violence and Sexual Assault (Coalition) and has the same income guidelines as the Legal Services Clinic. However, the DV Clinic will not disqualify a potential client just because the perpetrator makes too much money. Most of these cases are contested child custody, civil sexual assault, dating violence and stalking. The DV Clinic is seeing an increase in immigration cases related to VAWA, U-Visas and trafficking. Students working in the DV Clinic go to the Women's Prison and talk to inmates about child support enforcement, guardianship and divorce issues.

Amy Smith and Amanda Brodie discussed their work as attorneys with the Coalition. They primarily provide direct legal representation because of the types of cases they accept. Each case they handle takes a lot of time. They try to divide the state into geographical regions and coordinate with the DV Clinic so there is less overlap. Most of the referrals received by both the DV Clinic and the Coalition come from local agencies (SAFE House, etc.).

Jim Bamberger commented that the Coalition and the DV Clinic have already set up a mini-system for meeting the needs of one segment of the population through coordination.

Dan Fleck briefly discussed some of the pro bono work that attorneys do at his law firm in Jackson. They primarily take on worker's compensation, employment rights, prisoner rights and civil rights cases. If the case generates a fee then the money is put back into the pro bono fund.

There was a brief reference to other services such as the *Guardians ad Litem* program, Grandparents' Rights through AARP (Ray handles quite a few of those cases). Tammy Hudson from Child Support Services says grandparents seeking visitation and guardianships can go through her agency. Ray said that through his "Senior Grant" they can help fraud victims, as well as set up guardianships.

Ray's organization also helps individuals fill out *pro se* packets.

Limitations on the use of Federal Legal Services funds

Jim Bamberger wanted to make sure that when we discuss the roles of the new non-profit in conjunction with the LSC provider it is important to keep in mind that there are a lot of federal restrictions tied to those funds.

Private Attorney Involvement

There was a brief discussion on the reality of contracting with private attorneys. Most agreed that such an arrangement is uncontrollable and inefficient.

Ray said that in Cheyenne they have a Private Attorney Involvement (PAI) Coordinator. They pay their private, contract attorneys \$70/hour.

Jim Bamberger reminded everyone that LSC-funded providers have to spend 12 ½% of their money on private attorney involvement. However, some organizations have been more creative than spending the funds outright towards PAI. For example, many states use their 12 ½% to train and recruit pro bono attorneys.

Dona agreed that it is important to be creative in the use of pro bono attorneys.

Leigh Anne viewed the PAI Coordinator more as a case manager since the 12 ½% is essentially paying someone to do oversight (in the examples given by Jim).

Queen for a Day Exercise

Because we were short on time, the Commission did not have an opportunity to "create" the ideal statewide program, as had been planned. Instead, Jim Bamberger asked the Commission

to look back at the legislation (HB 61) and the White Paper to review what the expectations are for this system, and attempt to envision how that system would look.

What the Wyoming Center for Legal Aid should do

Walter suggested that with the time constraints the discussion move towards that the functions of the "Center" should be. Everyone agreed.

Dona began with an update on the website, which has three components: 1) providing legal information on certain topics. The UW College of Law could have students add content (for class credit) and then attorneys would volunteer to review the information for accuracy. There is a licensing fee of \$6,000 to use the *probono.net* platform, and it comes with training. A website coordinator would have to be hired at least part-time; 2) there is an advocate resource platform. This is where attorneys can be matched with clients/issues. There could also be a library linked to the platform for attorneys/advocates to use; 3) other stakeholders/agencies can link to the platform, such as Legal Aid of WY. A lot of technical assistance and training come with *probono.net*. It also works with *pro se* forms. Montana has a LiveChat component. There are people willing to help us get the website updated, but we need to put together a proposal. There is \$36,000 remaining from TIG (Technology Initiative Grant) funds that were awarded to the former LSC-provider in WY. The money has been held by federal LSC with the hopes that WY would eventually be able to use it.

Justice Burke wondered if the hoops we have to jump through are worth \$36,000. How long before we give up on LSC?

Chief Justice Kite and Ronda said that there is money available at the Supreme Court that could be used for the website so we should just use that.

Jim Bamberger suggested maybe we should go ahead and pass on the TIG funds, but decide where to house the coordinator.

Chief Justice Kite said the website should go to the Center.

Dona said the website committee had been working with Sleeter's *pro se/pro bono* group to review what they are doing.

Stuart said the ATJ website committee is trying to avoid having duplicate websites.

Justice Burke said that time is of the essence. The Commission supports the efforts of the website committee but it is frustrating.

Gen Tuma commented that a website and effective *pro se* packets will be huge for clients.

Jim Bamberger said that there was a directive from Chief Justice Kite that the Center would take over the website.

Dean Burke asked permission for Dona and Stuart to set priorities.

All approved.

Board of Directors

Chief Justice Kite wanted to discuss the composition of the Board of Directors for the Wyoming Center for Legal Aid.

Jim Bamberger suggested: four (4) appointed by the Supreme Court: one (1) client representative, two (2) former judges, and one (1) representative from the WY Bar Foundation; four (4) former legislators; one (1) appointment by the Governor (preferably a non-lawyer); two (2) attorneys recommended by the Bar Association; and one (1) tribal representative.

Leigh Anne asked what are the expectations of the Board?

All agreed that it would be more realistic to have two (2) legislators instead of four (4).

Jim Bamberger acknowledged that part of the problem with choosing a Board is not knowing what the role of the non-profit would be.

Chief Justice Kite said we would need a Board with business management skills.

Jim Bamberger said that regardless who is on the Board, each person needs to be committed to the mission of the Center.

Justice Burke asked how do you guarantee if someone is committed to the mission?

Jim Bamberger suggested that maybe rather than having people appointed, you ask for informed recommendations. Maybe the Executive Branch should not be involved in Board selection/creation.

Justice Burke said he would prefer that the Supreme Court (or ATJC) hand-pick the members of the Board.

Jim Bamberger suggested that maybe because of politics and state funds, the ATJC probably doesn't want the Executive Branch involved. Perhaps the court can make appointments and the legislators can make recommendations.

Tammy Hudson felt that it would be very hard to find a client representative based on past experiences with similar situations.

Jim Bamberger has had a different experience in Washington with client representatives.

Judge Roberts suggested that maybe the Board does not have to have a specific number of members. We could make it more flexible, for example, by requiring no less than five (5) but no more than nine (9) or eleven (11). He felt we needed first to resolve the role of the Center and the Commission, but that a minimum of five (5) should be appointed by the Commission.

Jim Bamberger asked where are we going to place the “accountability” people? In most states ATJ Commissions are political bodies. Can the Center be a provider AND fulfill the accountability function?

Role of Executive Director

There was a brief discussion on the Executive Director. Several mentioned they liked the ad that had been circulated by NW Texas Legal Aid. The job description needs to be clear. Salary needs to be decided and it is important to look outside the state for potential candidates.

Dona thought the decision on whether the Center will have in-house attorneys on staff will have a big impact on the job description for the Executive Director.

Summary

Jim Bamberger said that based on the discussion of the day it looked like the Center would be a “hybrid”- running the website, have some onsite attorneys, award grants to current providers and provide state support with training, etc.

Leigh Anne emphasized the importance of having good data. We need a clear understanding of what information to track from the beginning. There also needs to be consistency between agencies.

Jim Bamberger said that one piece of the equation to really consider is the location of the phone intake system. He can’t understand why we would use unrestricted funds (as opposed to LSC funds) to run a phone intake system.

Justice Burke said he felt like a lot of issues had not been resolved. Functions that have been identified: 1) where to house the website administrator or content coordinator; 2) how to provide direct representation- the Center will either hire attorneys or contract.

Jim Bamberger said that if it were him, he would have in-house attorneys.

Justice Burke asked if the Center could give grants to the DV Clinic?

Jim Bamberger said absolutely. It is the best way to use existing providers.

Judge Roberts asked if we did have a grant application, would it be the Commission’s responsibility to create standards, expectations, etc.?

Answer: the by-laws of the Center have to be in line with the expectations of the Commission.

In sum, the following is a description of the various roles that the Center may do:

1. Provide limited direct representation
2. Coordinate with existing providers
3. Create new providers
4. Provide a single point of entry (hasn’t been decided)
5. Provide accountability/monitoring

6. Intake
7. Training/Advocacy
8. Oversight

Meeting adjourned at 3:00 p.m.