

STATE OF WYOMING ACCESS TO JUSTICE COMMISSION

REPORT TO THE WYOMING SUPREME COURT

July 1, 2013

**HONORABLE E. JAMES BURKE, CHAIRMAN
JUSTICE, WYOMING SUPREME COURT**

Members of the Commission

**John M. Burman, *Ex-Officio Member, University of Wyoming College of Law, and
Attorney at Law***

C. John Cotton, *President, Wyoming State Bar, and Attorney at Law*

Honorable Shelley Cundiff, *Circuit Court Judge, Fourth Judicial District*

Stuart R. Day, *Attorney at Law*

Honorable Timothy C. Day, *District Court Judge, Ninth Judicial District*

Denise Burke, *Executive Director, Wyoming State Bar*

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Honorable Marilyn S. Kite, *Chief Justice, Wyoming Supreme Court*

Honorable Richard L. Lavery, *District Court Judge, Third Judicial District*

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James Salisbury, *President, Wyoming State Bar Foundation, and Attorney at Law*

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The Wyoming Access to Justice Commission (WAJC or Commission) is pleased to submit this report to the Wyoming Supreme Court. The Commission continues to play an important role in overseeing the implementation of landmark legislation passed in 2010 that is providing essential funding to a range of legal aid programs in Wyoming. Minutes of the Commission's meetings are posted on the Wyoming State Courts' web site (<http://www.courts.state.wy.us/AJCMinutes.aspx>) and minutes of the Commission's November 1, 2012 meeting and May 20, 2013 meeting are attached to this Report as Exhibit A.¹

I. History

Wyoming's Access to Justice programs have made significant strides in the last four years. In December 2009, the WAJC published a White Paper (Dec. 14, 2009; <http://www.courts.state.wy.us/AJC/ATJWhitePaper.pdf>; Exhibit B to this Report) that examined the status of Access to Justice programs in the state and made recommendations for legislation and funding sources to expand Wyoming's commitment to indigent citizens. The Commission drafted and helped sponsor legislation in the 2010 Wyoming Legislative Session which created a funding source for Access to Justice programs (\$10 filing fee on civil and criminal cases) and set up an umbrella structure for programs. That structure contemplated establishing a non-profit corporation under the direction of the Wyoming Supreme Court.

The Supreme Court created the Wyoming Center for Legal Aid (Center) in 2011, a non-profit corporation with a volunteer board, to initiate and oversee programs and grant awards. The Center hired staff and began making grants to organizations, such as Legal Aid of Wyoming, that are providing direct legal assistance to the indigent population.

The WAJC filed a report with the Supreme Court on December 1, 2011, summarizing the important developments that occurred over the prior three years (Exhibit C; <http://www.courts.state.wy.us/AJC/ThreeYearReportFiled.pdf>). On January 17, 2012, the Supreme Court issued its Order Adopting 2012 Priorities for the Access to Justice Commission (Exhibit D; <http://www.courts.state.wy.us/AJC/OrderEstablishing2012Priorities.pdf>). The current report updates the Court on the considerable progress that has been made, and identifies the areas where further efforts will be expended by all involved.

The work of the Commission has been recognized by the American Bar Association. The ABA announced in June 2013 that the Wyoming ATJ Commission was one of seven state commissions to receive a grant to help expand access. The grant is for the development of pilot Skype-based remote law offices for civil legal aid at rural sites, as part of a broad redesign, coordination and expansion of the state's legal aid delivery system.

¹ The Commission has met 23 times since its inception in December 2008.

The Center published its first report to the Supreme Court on July 31, 2012 (Exhibit E; <http://www.legalhelpwy.org/files/2613/6622/8415/WCLA-2012AnnualReport.pdf> . That report outlined the progress that the Center has made to construct a new organization to oversee the Access to Justice programs and invest the appropriated funds in programs that are making a demonstrable difference in the lives of Wyoming citizens.

In the last year the Center has worked closely with established programs to expand the availability of direct legal services to parts of the state that have been historically underserved. The success of the Center and its related programs is described briefly below. The Commission is also working with the Wyoming State Bar Association and the Courts to encourage and help support other programs that provide direct services or that hold out the opportunity to help address access issues.

The Supreme Court recently appointed four new members to the Commission: James Salisbury, who is an attorney in Cheyenne and President of the Wyoming State Bar Foundation; C. John Cotton, an attorney from Gillette and President of the Wyoming State Bar; the Honorable Shelley Cundiff, Circuit Court Judge for the Fourth Judicial District; and Paul Phillips, an attorney in Gillette who is a member of the Board of Directors of Legal Aid of Wyoming.

II. Current Programs

A. The Wyoming Center for Legal Aid

The Legislation passed in 2010, through the active support of Commission member Sen. (now President of the Senate) Tony Ross, created a reliable stream of revenue for legal services. *See* 2010 Wyo. Sess. Law, Ch. 109.²For the first time in its history Wyoming could begin to fund legal aid programs with predictable revenue, and begin to build the infrastructure that will ensure the long term operation of these complex endeavors. The revenue stream is approximately \$1.2 million per year, which allows the Center to award grant funding of about \$750,000 to \$900,000 each year. The Center is staffed by three attorneys, including Director Angie Dorsch, who has considerable experience leading legal aid programs. Most recently she held positions with Legal Aid of Northwest Texas.

The Center has developed an excellent working relationship with Legal Aid of Wyoming, Inc. (www.lawwyoming.org). The Center has been working on ways to expand direct access to lawyers in other parts of Wyoming, particularly Southwestern Wyoming and Northeastern Wyoming. The Center was the driving force behind the efforts to establish a new office for Legal Aid in Sweetwater County. The Center has funded the hiring of an attorney through Legal Aid who is working out of the Sweetwater County Family Justice Center (see the Legal Aid discussion below). The Centers hopes to work with Legal Aid to establish a similar office in Gillette.

² Creating Wyo. Stat. §§ 5-2-121; 5-2-122; amending Wyo. Stat. §§ 2-2-401; 5-2-202; 5-3-205; 5-3-206; 5-6-108; 5-6-204; 5-6-303; 5-9-135; 5-9-144; 6-10-102; 6-10-103.

The Center has provided financial assistance to support the statewide Hot Line - 1-877-432-9955 - which is the central point of contact for people seeking legal services. The Hot Line is staffed from 9:00 a.m. to 4:00 p.m. each day. Clients can be screened immediately for income eligibility and speak directly with an attorney. Clients who need more extended service are referred to the closest office for appointments. In the three month period of January 2013 – March 2013, over 780 people received direct services through the Hot Line.

Two web sites, one operated by Legal Aid of Wyoming and the other by the Center (www.legalhelpwy.org), provide information on specific legal topics, forms for pro se representation and an ability to contact lawyers directly. The web sites are constantly updated, with new content areas being added every month. In the first quarter of 2013, the Center's website had 1,352 "hits" or visits from all over the state, including individuals from Freedom, Pine Bluffs, Lovell and Saratoga.

The Center has awarded numerous grants to legal services organizations in the state including the Wyoming Coalition against Domestic Violence and Sexual Assault (Coalition), Legal Aid of Wyoming, the Teton County Access to Justice Center, and the Wyoming Children's Law Center. The results of that funding include:

- ▶ The grant to the Coalition came at a time of massive federal funding cuts – the Center's grant allowed the Coalition to maintain its staff of two full-time attorneys. In the first quarter of 2013, the Coalition has opened 15 new cases based on the funding from the Center.
- ▶ The Teton County Access to Justice Center opened 22 new cases and addressed 33 self-help reference questions during the first quarter of 2013.
- ▶ The Wyoming Children's Law Center opened 11 new cases and provided limited assistance in an additional 5 cases in the first quarter of 2013.

The Center and Legal Aid of Wyoming are working on automating the forms for *pro se* divorces, so that an interactive program can be used by individuals to produce the court required forms. The system will ask the individuals a series of questions and then use the responses to populate the necessary forms and prepare them for filing. This will hopefully help overcome the difficulties with the divorce packet, which until now presented an intimidating 200-page package of documents. Investing in simplifying and automating the forms is a giant step forward for the large number of divorce cases (estimated at 60%-70%) that proceed *pro se*.

The Center has also been working with the Wyoming State Bar to publicize to lawyers the availability of Limited Scope Representations, also called unbundled legal services, authorized by Rules 1.2 and 6.5 of the Wyoming Rules of Professional Conduct. These types of representations, which are authorized under a rule adopted by the Wyoming Supreme Court, allow lawyers to undertake defined tasks, such as preparing a divorce complaint or helping draft an answer, without assuming responsibility for a case start to finish. They help individuals by providing access to lawyers for limited, but significant, parts of the litigation process at

reasonable cost and they allow lawyers to earn fees that might not otherwise be forthcoming if the lawyer had to be involved in every aspect of the case.

The Center and State Bar have created a packet of materials describing and facilitating limited scope representation (Exhibit F), and have presented CLE programs to lawyers in two locations in Wyoming about limited scope representation and has developed informative instructions on how to structure such representations.

Starting in January 2013, the Center began publishing a quarterly newsletter reporting on the Center's activities, as well as Access to Justice developments generally. The Center published a newsletter on January 11 and April 23, 2013, and those newsletters are attached as Exhibit G (available at: <http://www.legalhelpwy.org/index.php/about-us/news/legal-hub-volume-1-issue-1/> ; <http://www.legalhelpwy.org/index.php/about-us/news/legal-hub-volume-1-issue-2/>). The Commission is working with the Center to distribute the newsletter across the state.

B. Legal Aid of Wyoming, Inc.

The Center has awarded more than \$200,000 in grants to support and enhance Legal Aid of Wyoming's programs. Legal Aid of Wyoming is the federally funded statewide legal services provider. Unfortunately, its federal funding has continued to decline, but the Center has been able to help sustain the program's work.

Legal Aid of Wyoming operates offices in Lander, Casper and Cheyenne, and has opened a new office in Rock Springs, with funding support from the Center, as part of the Sweetwater County Family Justice Center. This is the first Family Justice Center in Wyoming and was the result of a collaborative effort between the Center, Legal Aid of Wyoming, the Sweetwater County Attorney's Office led by Brett Johnson, the Wyoming Office of the Attorney General, Division of Victims Services, and other entities.

Legal Aid of Wyoming is also planning to open an office in Gillette to serve Northern Wyoming, including the Big Horn Basin.

C. "I'll Do One" (Pro Bono case, that is)

The Commission continues to work with the State Bar, the State Bar Foundation, the Center and Legal Aid of Wyoming to encourage the expansion of lawyer pro bono service. These entities are developing an innovative program called "I'll Do One" which will be announced at the September 2013 Bar Convention. The program will encourage all lawyers in the state to take on one pro bono case for a client who financially qualifies for legal services.

F. District Court Facilitator/Resource Program

The Commission recognizes that Wyoming's District Court Clerks are an essential first point of contact for parties and the clerks can therefore play a major role in the smooth functioning of our system of justice.

The Commission and the Center continue to work with the District Court clerks to develop and implement programs to train the clerks to provide non-legal information to *pro se* litigants. Commission members are meeting with the clerks in mid-June to discuss ways to more broadly implement these programs. The clerks are on the front lines when people pursue *pro se* matters or simply need to understand how the court system works.

G. Language Access

The Commission has long been concerned about access to the courts by those who do not speak English. Fortunately much progress has been made in the last several years by the Wyoming courts to ensure that language translation services are available to litigants. While the Commission will continue to monitor progress in this area it does not appear to require significant attention from the Commission or the Center at this time.

H. Rule 1 Initiative

Chief Justice Kite and other judges and lawyers continue to work on mechanisms to streamline the civil litigation process. This is a long-term undertaking that the Commission strongly supports but that at this point does not require resources from the Commission or Center. As these programs evolve the Commission may be asked to take a more prominent role. This will remain on the Commission's agenda for future meetings and reports to the Court.

I. Local Access Subcommittee District Court Survey Program

In January 2012, the Access to Justice Commission created a Local Access Subcommittee. The Subcommittee includes co-chairs, the Honorable Richard L. Lavery, Third Judicial District Court Judge, and the Honorable Michael Davis, Supreme Court Justice, as well as subcommittee members, the Honorable E. James Burke, Supreme Court Justice, the Honorable Timothy C. Day, Ninth Judicial District Court Judge, Amanda Roberts, Attorney at Law, Anita Schroeder, President of Legal Assistants of Wyoming, Jon Aimone, Attorney at Law and former Chair of the Wyoming State Bar's Young Lawyers Section, and Walter Eggers, Attorney at Law.

From June through September, 2012, the Local Access Subcommittee of the Wyoming Access to Justice Commission conducted interviews with all of the District Court Judges in the State. The purpose of the interviews was to analyze and understand the current environment for domestic relations cases in the District Courts around Wyoming. Nineteen of Wyoming's twenty-two District Court Judges participated in the interviews. The Commission and Local Access Subcommittee thank those Judges for taking time from their extremely busy schedules to participate in this process.

Justice Burke started the interview process by coordinating with then current president of the District Judges Conference, the Honorable Judge Wade E. Waldrip of the Second Judicial District Court, to seek the District Court Judges' input on domestic relations issues in their courts. Justice Burke sent a "talking points memo" to the District Court Judges in advance of the interviews. The memo is attached to this report as Exhibit H. The Subcommittee prepared

summaries of each interview and those summaries are attached to this report as Exhibit I. With the permission of the Judges, the Subcommittee provided redacted summaries of the interviews to Mark Gifford, Dick Honaker and John Greacen, who used the summaries in their presentation at the Wyoming Bar Convention on September 19, 2012.

J. Participation in National Access to Justice Programs

Representatives of the Commission and the Center continue to be involved in national programs that are dedicated to providing legal aid to the indigent. Commission member Walter Eggers, Center Director Angie Dorsch, Center Staff Attorney Kristin Karr and Rennie Polidora, a staff attorney with the Wyoming Coalition Against Domestic Violence and Sexual Abuse, attended the American Bar Association's Equal Justice Conference in May in St. Louis. Other states are vitally interested in the way that Wyoming is supporting its access to justice programs, so it was important for Wyoming to be well represented at this conference.

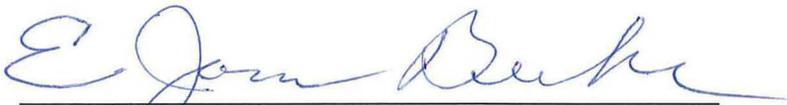
Commission Chairman Justice Burke and Commission Member Stuart Day have attended this annual conference in previous years. The Commission will continue to participate in the national discussion about these issues.

III. Conclusion

The protracted economic recession in Wyoming and across the country continues to extract an enormous toll from the poor and most vulnerable of our citizens. While the Commission is very pleased with the progress that has been made in the last three years by Wyoming's Access to Justice programs we are mindful that we are just making a small dent in the problem. Tens of thousands of individuals each year need legal help and yet are unable to get it. The resources that are available, while significant and being put to good use, remain small by comparison to the magnitude of the challenges. The Commission will continue its diligent oversight of the programs and it remains optimistic that the good will and efforts demonstrated by many people who are committed to this work in Wyoming will continue to help make many lives a bit better.

Dated July 1, 2013

Respectfully submitted:



E. James Burke, Chairman
Justice, Wyoming Supreme Court