

**2018**

**STATE OF THE JUDICIARY**

**E. James Burke, Chief Justice**

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Wyoming State Legislature  
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Mr. President, Mr. Speaker, Governor and Mrs. Mead, members of the Sixty-Fourth Wyoming Legislature, elected officials, members of the judiciary, guests and citizens of the State of Wyoming. It is an honor to speak to you on behalf of the dedicated men and women who serve in the judicial branch of our state's government. Thank you, President Bebout and Speaker Harshman, for the opportunity to do so.

I take my cue for my remarks today from the finals competition of the "*We the People*" program held in Laramie a few weeks ago. Most of you are familiar with the program and many of you have served as judges for the competition. It's a high school civics program. Students from around the state represent their schools in competition designed to demonstrate their understanding of our constitution. The winning team represents Wyoming during the national competition in Washington D.C. The official name of the program is "*We the People, the Citizen and the Constitution*" and the program strives "to prepare each student to become knowledgeable and engaged citizens." If you have had the opportunity to see these students in action, you have no doubt that goal will be achieved.

Warren Buffet once noted: "Someone is sitting in the shade today because someone planted a tree a long time ago." Since 1987, approximately 6000 Wyoming students have participated in the competitive hearings. We have no doubt that the investment made yesterday in those students will pay significant dividends for those students and our communities in the years to come. Matt Strannigan has been heading up the program for over 20 years. He and all who have made that program possible deserve our thanks and congratulations.

In preparing for the contest, students gain a clear understanding of the ideals and principles that serve as the foundation for the constitution and our system of government.

I'd like to focus on one of those ideals. It's embodied in the first sentence of our constitution: "We the People of the United States, in Order to form a more perfect Union, establish Justice ... ." It ends our Pledge of Allegiance: "... with liberty and justice for all."

"Justice for all." That's the touchstone, isn't it? When we provide an update on the state of the judiciary, that should be our measuring stick, shouldn't it? Are we making progress? Are we moving closer to that ultimate goal? I'm pleased to say that, with your help, continued support from the executive branch, investment by our communities and our citizens, and the unwavering commitment of the men and women in our judicial branch, we continue to progress. Because we are all pulling together toward that common goal, I can confidently report that the state of our judiciary is strong.

We are making progress on a number of fronts. The Sweetwater County Justice Center will be opening this spring. The building will house the circuit courts (previously split between Rock Springs and Green River), the public defender offices, and the county attorney. The efficiencies from the combination of courts are immense. According to one judge: "The days of shuttling people around are over. It's now one stop shopping." The move will also free up much needed additional space for the district courts in Sweetwater County. In the words of Judge Prokos, "The new facility is a game changer for the justice system in Sweetwater County."

In 2016, the legislature authorized a fourth district court judge in Laramie County. In May of last year, Laramie County voters approved funding for courthouse renovations to provide much needed facilities for an additional courtroom, offices for a fourth judge and staff, as well as upgrades to existing facilities. Construction is expected to commence in the spring. For the judges in Laramie County, help cannot come soon enough. Workload studies show a need for 4.58 district judges. The three district judges have been coping with that demand for years. It takes a toll on the judges and their staff, and on the quality of justice in Laramie County. Delays are inevitable. Lives are put on hold. Business transactions remain in limbo. Public trust and confidence in our justice system diminishes. We would urge your support of legislation this year to fund that judicial position.

We continue to move forward on the technology front. We have established technology standards for audio and video capability in our courtrooms and jury rooms. Fortified by additional revenues, resulting from an increase to the court automation fund that you approved last session, we have embarked on an upgrade of our video conferencing equipment and software across the state, allowing courts to more efficiently manage their cases and courtrooms without requiring time-consuming and often costly travel by parties, attorneys, and witnesses. In the past year, our IT staff replaced every video conferencing unit in the judicial branch. That equipment is already being put to good use in our courtrooms. According to one court reporter, discussing a medical malpractice trial, "It's just so much better. It makes it much easier for the jury to understand the complicated expert testimony." We have installed new audio systems in thirteen courtrooms, enhancing the ability of all interested parties to hear and understand the day-to-day functions of the courts. We have taken our first steps toward migration to the cloud, which will provide greater consistency in service to courts throughout the state and a more efficient and reliable disaster recovery process.

We continue to focus upon the implementation of software application systems to enhance case management and management of court records. The new uniform case management system will provide the foundation for electronic filing in our courts. We intend to begin piloting the system later this year.

We are in the pilot phase of a new jury management system that will improve our jury management process and provide increased flexibility for communication between the courts and potential jurors. Under the new system, court/juror contact will be available via e-mail, text messaging, or phone calls. One of the goals, of course, is to lessen the burden on our citizens as they fulfill their civic responsibility when called for jury duty. The system is currently being piloted in four courts in the state.

In sum, we have made significant progress. Our IT branch, under Julie Goyen, deserves special recognition. They are moving forward on a lot of fronts. We're very proud of what they've accomplished this year. In this budget session, we are seeking additional spending authority to build on the good work that has already been accomplished.

As a heads up, I should mention that remote public access to court records will be a focus in the upcoming year. As these projects move forward, we expect that more attention will be paid to this issue. Some may raise questions concerning the confidentiality of some court

records. You may be forced to address that issue in future legislative sessions. For our part, we are proceeding with the understanding that access is the preferred path. If it has not been legislatively designated as confidential, access is permitted. Obviously, our judges will retain the discretionary authority to require confidentiality in specific circumstances.

We have also made progress in several areas that I will touch on briefly. Equal Justice Wyoming continues to expand its services. I have emphasized the importance and contributions of Equal Justice Wyoming in past visits with you. One new program warrants mention. In March 2016, Equal Justice launched the Volunteer Reference Attorney pilot program in Cheyenne, placing pro bono attorneys in the Laramie County Courthouse to assist self-represented litigants. The attorneys provide legal information, explain court procedures, and assist litigants completing court forms. The program quickly became a success, and has now expanded to Casper, Laramie, Sheridan, and Rawlins. We anticipate future growth and thank all of the volunteer attorneys.

Most of the counties that were eligible for courthouse security funding have applied for those funds and put them to good use. A recent security assessment for seven additional counties, was completed in the past year showing a need in those counties. We hope that we can continue the momentum from past sessions and that you will provide assistance for addressing those needs.

Our Judicial Learning Center has proven to be a success. We are seeing more visitors to the Court than ever before. Teachers have begun using the learning center as a platform to tackle more sophisticated lessons during visits. We continue to partner with the education system and are hosting a lesson plan contest that ends April 9<sup>th</sup>. Around the state, our efforts at public education and judicial outreach also continue. Again, we believe that those efforts are important to improving public trust and confidence in our system of justice.

We have beefed up our judicial orientation and education. A renewed focus in this area will allow our new judges to be better prepared from the outset. And, speaking of new judges . . . during this past year, District Judges Wade Waldrip, John Brooks, and Steven Cranfill, along with Circuit Judge Jane Eakin, announced their retirements after long and distinguished careers on the bench. They will be missed. Judge Dawnessa Snyder replaced Judge Waldrip in the Second Judicial District in Rawlins, Judge Scott Peasley replaced Judge Brooks in the Eighth Judicial District in Douglas, and Judge Bill Simpson replaced Judge Cranfill in the Fifth Judicial District in Cody. Susan Stipe will replace Judge Eakin in the Second Judicial District in Rawlins later this month. All are highly qualified and we are pleased to welcome them as colleagues.

Closer to home, Justice Hill will also be retiring. He has been a mainstay of this Court for nearly 20 years, including four years as Chief Justice. He has authored hundreds of opinions, listened to thousands of oral arguments and, throughout, has served this Court, the judicial branch, and the citizens of this state with dedication and distinction. We will miss him. [Acknowledge Justice Hill]

Lynne Boomgaarden has been selected to fill that vacancy. Lynne comes to this Court with excellent academic credentials, a broad range of legal experience, and a solid record of civic

engagement. She will be an excellent Supreme Court Justice and we look forward to welcoming her as a colleague. Justice Hill's final day on the Court will be this Friday, and Lynne will take office on the following Tuesday, the next business day. This, again, is testament to our merit selection process. Vacancies do not remain unfilled.

On a more somber note, we must acknowledge the passing of former district court judges, Bob Ranck and Betty Kail.

Judge Ranck was the first district court judge for Teton County. He served the citizens of the Ninth Judicial District in Jackson for over 12 years, before his retirement in 1989.

Judge Kail was the first woman to serve as a county court judge and a district court judge in our state. She was appointed to the bench in 1981. After two years at the county level, Judge Kail was appointed as a district judge for the Ninth Judicial District in Lander where she served until her retirement in 1994. We will be honoring Judge Kail later today when we unveil her photograph during our dedication of the Equality Wall at the Supreme Court.

We are proud that we have been able to make progress in these times of economic challenge. As I look back, there are two take-aways. First, very little of that progress would have been possible if you had not seen fit to continue to invest in our branch of government. You are essential partners in the quest for justice in this state.

Second, talk of progress now, to some extent, underscores our lack of progress in the past. For example, we now talk about audio improvements in our courtrooms, but those improvements happened only after an assessment that revealed totally inadequate sound systems in many courtrooms throughout the state. On a ten-point scale, many were in the 1-2 category. The comment from one of our district judges bears repeating: "Abraham Lincoln would have been perfectly at home in my courtroom." How did that happen? There are two basic reasons, I believe. First, responsibility was murky. It was unclear whether it was a state or county responsibility. Second, there were no standards, no requirements to satisfy. We have now adopted standards and taken responsibility. Progress is being made in that area. But, we must remain vigilant in all areas. We must not be comfortable with the status quo. We cannot afford to move backwards.

The state/county responsibility issue is a difficult one. There is proposed legislation that delineates responsibility for courtroom technology and we would urge your support of that legislation so that we can continue to move forward in that important area. But, there are other areas that appear to be more difficult to resolve. Court security is one. As the assessments that we have obtained in recent years have revealed, there are serious security concerns in many of our courthouses. All who use those facilities are potentially at risk. Progress is not occurring at a satisfactory pace. No one questions the need for the improvements. There are, however, unresolved issues concerning responsibility, funding, and appropriate security standards. We would suggest this issue as an interim topic so that all stakeholders can be brought together to work towards a solution.

There are a host of other challenges but time does not permit any detailed discussion. I would like to briefly address the public defender issue. In November, I received a letter from Diane Lozano, our State Public Defender. The letter began, “Dear Chief Justice Burke: I am writing to let you know that the Public Defender caseloads are at crisis levels, both trial and appellate.” The letter went on to detail a situation that is very concerning. It is one that goes right to the heart of our constitutional guarantees and our constitutional responsibilities. If there is not a solution, the fallout will be severe for the judiciary and its ability to manage a docket, for those accused of crimes who are presumed innocent and may be unable to obtain legal representation, and for our citizens whose safety may be jeopardized if criminal prosecutions are derailed. This is not a situation that can be ignored. Our public defenders are a crucial component of our justice system. To the extent that you feel that you would benefit from our input, just let us know. Our judges are available.

This will be my final “State of the Judiciary”—it has been an indescribable honor to have served as Chief Justice. During that time, I’ve come to have a greater appreciation for the many moving parts that are in play and must be coordinated for an effective judicial branch of government. There must be buy-in from so many to effectuate progress. I’ve also come to realize that we are very fortunate in this state. We can talk. We can work together. There is, I believe, commitment to a common goal of a justice system that works for the citizens of this state.

Governor, again, I want to thank you for the respect and support you have provided the judiciary throughout your tenure as Governor. As I’ve said many times before, it is one thing for judges to talk about the importance of an effective judicial branch, it is quite another for the leader of the executive branch to do the same. I believe that your support makes a difference. It builds public trust and confidence in the judiciary of our state and, ultimately, I believe that positively impacts public perception of our state government as a whole.

To the members of the judiciary, I cannot tell you how much I admire you and the important work that you do. As I said many times last year, our circuit judges are the unsung heroes of our branch. We continue to ask more and they continue to deliver. As we all know, our district judges are our general jurisdiction judges. They are the backbone of our judiciary. We place tremendous responsibilities on their shoulders and time and again, on a daily basis, they have demonstrated that they are up to the challenge. We owe them a great deal.

To my colleagues on the Supreme Court, Justices Hill, Davis, Fox, and Kautz, it has been an honor to serve with you. All are leaders. All have taken on extra responsibilities. Much of what has been accomplished is attributable to their efforts. Justice Davis will be the next Chief Justice. He will be wonderful and will continue to move us forward.

And finally, our judicial branch employees--this is the most difficult part of the speech for me. Anything that I say would be inadequate. It’s one thing to obtain funding. It’s quite another to implement new programs. You are the reason we have accomplished so much. Personally, I find your dedication and commitment inspirational. You are the best.

In closing, I would like to read a passage from a book. I think it captures the point I've been trying to make. The author of the book is Daniel James Brown. The title is, "*The Boys in the Boat*." It's the true story of nine University of Washington students who "rowed crew" during the depression in the 1930's and their "epic quest" for the gold medal at the 1936 Olympics in Hitler's Berlin. It's an ensemble piece but the main character is Joe Rantz, one of "the boys in the boat." The author interviewed Joe shortly before his death at the age of 93. He writes this:

It was when he tried to talk about "the boat" that his words began to falter and tears welled up in his eyes. Finally, watching Joe struggle for composure over and over, I realized that "the boat" was something more than just the shell or its crew. To Joe, it encompassed but transcended both - it was something mysterious and almost beyond definition. It was a shared experience - a singular thing that had unfolded in a golden sliver of time long gone, when nine good-hearted young men strove together, pulled together as one, gave everything they had for one another, bound together forever by pride and respect and love. Joe was crying, at least in part, for the loss of that vanished moment but much more, I think, for the sheer beauty of it.

I wondered about including the last sentence of that quote until I realized that the "moment" for Joe Rantz was not just crossing the finish line. It was the entire endeavor. For Justice Hill, the "moment" has lasted 20 years. During that time, he has made important and lasting contributions to our system of justice. For the students I mentioned at the beginning, their moment is yet to come. Our system is where it is today because others before us, in their moment, understood the importance of a properly functioning justice system to our way of life. We are reaping the benefits of the investments they made long ago. Our moment is now. We are all in this together. We must continue to move forward to preserve and build on their efforts. It's an honor to be part of that journey with all of you.

Thank you again for the opportunity to visit with you this morning and for all that you do for the judicial branch and the State of Wyoming. We wish you well in this legislative session. Good luck and Godspeed.