

**Statewide Drug Court and Mental Health Court
Coordinating Committee
April 4, 2008
Idaho Supreme Court**

MINUTES

Members Present:

**Chief Justice Daniel Eismann
Vice Chair, Brent Moss
Patti Tobias
Norma Jaeger
Eric Olson
Burt Butler
Roger Christensen
Kerry Hong
Barry Jones**

**Roger Bourne
Richard Armstrong
Molly Huskey
Judge Ron Wilper
Scott Fouser
Joan Nuxoll
Linda Wright
Judge Richard Bevan
Judge Ron Bush**

**Sarah Woodley
John Tanner
Martha Tanner
Valerie Gardner
Debbie Field
Amy Castro
Marreen Burton
Judge Larry Duff**

Guests Present:

**Kim Osadchuk
Judge John Varin
Judge Michael Dennard
Larry Reiner
Deanna Smith
Kathleen Allyn
Scott Tiffany
Amy Holly Priest
Michael Henderson
Bethany Gadzinski
Scott Ronan
Linda Polhemus
Darrell Roskelley
Kathy Skippen**

**Claudon Lilya
Shawn Hill
Rita Wickham
Tina Chavez
Joann Noble
Matt English
Cyndy Hawkley
Marsha Stallones
Leslie Hoerier
Rich Neu
Kelly Norris
Henry Atencio
Robert Hamlin**

**NEXT MEETING DATE
October 10, 2008
8:30 - 4:00**

**IDAHO SUPREME COURT
LOWER LEVEL
CONFERENCE ROOM**

Chair Justice Eismann convened the meeting and welcomed members and guests, and all participants introduced themselves.

Judge Wilper moved and Linda Wright seconded approval of the minutes of the November 16, 2007 meeting, as corrected. Motion carried.

Review of Actions Taken Following the November Meeting

Norma Jaeger reviewed actions taken from the November meeting. She highlighted the following actions from a more extensive written list provided to the committee:

- The final draft outcome evaluation report has been received showing that the Idaho Felony Drug Courts achieved statistically significant reductions in recidivism compared to a matched comparison group

- A DUI Court Outcome evaluation was completed of four DUI Courts by Scott Ronan which also showed statistically significant reductions in recidivism
- Mental Health Guidelines have been further refined since the guidelines were adopted at the November meeting
- Drug courts were able to refer selected participants to residential treatment and for recovery support services
- The Ada County Juvenile Drug Court was selected to participate in a national juvenile drug court evaluation to be conducted by Dr. Edward Latessa
- The Strategic Plan for DUI courts continues to be pursued and expansions will be possible with up to 150 slots funded by the recent legislative session for misdemeanor offenders
- Much work has been carried out to implement a single uniform statewide assessment for substance use disorders

Committee members were referred to the written summary report provided with meeting materials for the full list of actions taken.

Ethical Considerations in Problem-Solving Courts

Chair Justice Eismann led a discussion of issues related to a recent Judicial Council opinion holding that communications taking place in problem-solving court hearings and staffings in which the prosecutor and defense attorney were not both present would constitute ex parte communications under the Canons of Judicial Conduct. Representatives from several drug courts presented the current situations in their courts and recent actions taken as a result of this opinion. Further discussion identified several key issues and options for addressing the problem were discussed. **Patti Tobias moved and Linda Wright seconded that each problem-solving court coordinator and judge be asked to provide input on the issue in the form of current problems and any recommendations that they would make to resolve the problem. Further that a small workgroup, to include representation from each District, Bar Counsel, the Judicial Council, prosecutors and public defenders, be brought together to develop recommendations for the April 18th Administrative Conference, which would then discuss the issue and develop recommendations for the Supreme Court meeting on April 30th. Motion carried.**

Safe and Stable Families / Regional Partnership Grant

Bethany Gadzinski reported on progress of implementing this 5 year federal grant which will establish two new child protection drug courts in District 6, Bannock County and District 5, Twin Falls County. The recent legislative session approved spending authority for this grant project, ending a delay since January. District 6 has identified some initial families that will be part of a pilot test of their procedures. The treatment provider has selected a Child Protection Liaison position under the grant in both District 5 and District 6. Treatment providers have been selected. Funding is available to hire two Court Coordinators. The Stakeholder Advisory Committee will meet in late April. The federal continuation grant application has been submitted for the second year of the grant. Despite the spending authority delay, the critical grant deliverables have not fallen behind its original timeline.

Judge Moss moved and Judge Bush seconded that the Letter of Intent from Twin Falls County to plan a child protection drug court be approved. Motion carried.

Molly Huskey raised concerns with some of the provisions in documents provided in conjunction with the District 6 proposed Operations Application and action for approval of the application was deferred to a later consideration by the Coordinating Committee Executive Committee when these concerns have been resolved with the District.

Joan Nuxoll requested consideration for expanding elements of the grant to the operational, but currently unfunded, child protection drug court in the second district. Bethany indicated that their involvement was possible at some level. Norma Jaeger suggested that District 2 submit a letter outlining their needs and interests in participating in the project.

Patti Tobias described the Interagency Committee on Substance Abuse discussions of the significant expenditures in Idaho (1.5 million per year) for substance abuse services to parents involved in child protection cases. She indicated that she had examined research on how court - treatment collaborations had resulted in reduced time for children in foster care and quicker reunification of families and had become convinced that many opportunities exist today to develop effective solutions in Idaho. **Patti Tobias recommended and the coordinating committee concurred by assent that the Stakeholder Advisory Committee to be convened under this grant project be asked to consider and recommend a broader set of collaborative strategies to bring the courts, child protection services, and substance abuse treatment into further coordinated efforts to address child abuse and neglect resulting from parental alcohol and other drug use.**

Proposed Interagency Committee on Substance Abuse (ICSA) Drug Testing System Workgroup

The Interagency Committee has established a workgroup to consider ways to strengthen and also achieve cost savings through a statewide system for drug testing. The State Department of Administration has offered to assist in this effort to determine if a statewide contract might be one way of achieving cost savings. The Coordinating Committee was asked to identify representatives to this workgroup. **The following individuals volunteered to participate: Valerie Gardner, Marreen Burton, Joanne Noble, Matt English, Barry Jones, Joan Nuxoll, and Darrell Roskelley.**

Proposed Revisions to Uniform Consent for Disclosure of Confidential Information

Norma Jaeger reported on activities of an interagency workgroup to develop a multi-agency uniform consent for disclosure of confidential information and presented the proposed uniform consent for criminal justice clients in substance abuse treatment. The proposed consent differs from the current drug court statewide consent in some key ways.

- It is non-revocable until the criminal case is concluded
- It incorporates additional information beyond the substance abuse information
- It does not specifically identify all the identified parties spelled out in the current consent
- It includes an extensive list of client assurances

Having a uniform and system-wide common consent is important to the effective operation of the uniform client assessment process and the data system that will be used by all agencies serving individuals with substance use disorders.

Michael Henderson reported on his research into the issue, including the discrepancy in the federal confidentiality regulations under 42 CFR Part 2 Revised and those under HIPAA. One proposed resolution is to establish a court order, potentially even a standing system-wide court order, to release information covered under HIPAA in cases of criminal justice involved treatment clients. Molly Huskey raised serious concerns with the proposed form and indicated that she would have to advise defense counsel not to recommend that persons sign such consent with the incorporated non-revocation clause.

Judge Wilper moved and Molly Huskey seconded that Norma Jaeger communicate the concerns of the coordinating committee to the workgroup and seek to get revisions to the proposed uniform consent so that it would meet the needs of drug courts while still achieving a single uniform consent

form. The results would be brought back to the Coordinating Committee at the November meeting. Motion carried.

Juvenile Drug Court Statewide Utilization

Scott Ronan provided updated data on Juvenile drug court utilization and related data.

During the period from April 2007 through February 2008, 221 juveniles participated in the seven Idaho juvenile drug courts, with a monthly average of 142 participants. During this time 28 participants graduated, 48 were terminated who were unsuccessful, and 7 drug-free babies were born to participants. Scott also indicated that a process evaluation follow-up will be started to focus on the implementation of recommendations from the previous statewide juvenile drug court process evaluation. **In concert with the next process evaluation, Scott will convene a juvenile drug court workgroup to examine the ISTARS drug court module for juvenile drug court specific enhancements.**

During lunch, Cyndy Hawkley, Drug Court Coordinator from Bannock County Felony Drug and DUI Courts, reported on the Strategic Planning session held on April 3rd with drug and mental health court coordinators and the statewide coordinator. This session was facilitated by Janeanne Tourtellotte from North Carolina. **Through the structured process of analyzing Strengths, Challenges, Opportunities, and Threats the group identified the following six priorities for development efforts in the coming one to two years: ex parte communications issues, better matching sanctions to non-compliance, community outreach, training on data collection and use of information technology, funding, training of drug court team members on drug court issues and team member roles. In addition to developing the priorities, the group elaborated action steps and identified volunteers interested in working on each issue.**

Progress Report on Juvenile Mental Health Court District 7 Pilot Project

Eric Olson reported on the development of the District 7 Juvenile Mental Health Court which began operations in May 2007. There are currently 17 participants with a goal of reaching 30 participants. The court is called Juveniles Making Progress (jump court) rather than juvenile mental health court to reduce stigma felt by the juveniles. Participants must meet criteria for serious emotional disturbance but may have any of several mental health diagnoses. Treatment can include individual and family treatment, psychosocial rehabilitation, parent education (the Parent Project) Moral Reconciliation Therapy, Breaking Barriers, and drug testing. The most significant element of the treatment in this court is the use of "wraparound" as the treatment model. This model emphasizes assessing and building on strengths and also family engagement and empowerment. Families, particularly, report much greater satisfaction with the model. Funding is combined from the Department of Health and Welfare, including Medicaid, and the Department of Juvenile Corrections community treatment funds, which are tied to use of evidence-based practices. DHW has flexible funds that can be used to support many family support goals.

Burt Butler commended the excellent leadership provided by the Department of Health and Welfare in making wraparound services a key part of the model and achieving a single treatment plan out of the multiple agency treatment plans.

Patti Tobias asked when the project would expect to have findings that would indicate what the successful elements of the project were so that replication in other districts could reasonably build on the 7th Districts example. Eric indicated that he believed that they would have good information that could help others implement similar efforts by October or November 2008.

Norma Jaeger presented the Letter of Intent to plan a juvenile mental health court in District 1. **Kathleen Allyn moved and Judge Moss seconded that the 1st District Letter of Intent to plan a juvenile mental health court be approved by the Coordinating Committee. Motion carried.**

Molly Huskey asked why the Guidelines for Mental Health Courts had proposed a criterion of 70 IQ to be in mental health court and suggested that this might violate ADA requirements. Norma Jaeger responded that the committee had identified from experiences in several of the mental health courts that individuals with IQs lower than this threshold had great difficulty in meeting the requirements of the court and that it was felt a disservice to them. However, perhaps the criteria needed to be stated in functional terms rather than as a specific number. She will take this feedback to the workgroup, which will continue to work on these guidelines and which also should become the ongoing subcommittee on mental health courts.

Kathy Skippen, from the Office of Drug Policy reported to the committee on the work that has been done to implement the statewide uniform substance use assessment (the Global Appraisal of Individual Needs or GAIN). They have just learned that the IDOC could begin testing on-line use of the GAIN Q before the end of April. Statewide, 500 people have been trained to administer the GAIN I or GAIN Q in the past 9 months.

Judges Bush and Bevan indicated that Judges would be interested in seeing the types of reports that would be generated from the GAIN assessments. Burt Butler asked whether a County Misdemeanor Probation office that could administer the GAIN Q could bypass the BPA screening process. Norma Jaeger indicated that this could be possible since the offer had been made to County juvenile probation to use the GAIN to bypass the BPA screening. These issues will be taken back to the GAIN Implementation Workgroup.

Kathy also reported on the status of the Request for Proposals to competitively select a DHW Management Services Contractor. The RFP had been released earlier this year but was cancelled and will be reissued. This will necessitate extending the current contract with BPA.

Drug Court Implementation:

Continuation of the Expanded Treatment Continuum

Bethany Gadzinski reported that the Department of Health and Welfare was very supportive of continuing to make the full continuum of treatment and recovery support services available to drug court participants in order to continue to achieve or even improve positive outcomes for participants. Judge Moss expressed approval for the reestablishment of residential treatment which had been available through a federal grant until FY 08 and then discontinued. Amy Holly Priest from BPA circulated a report from BPA showing the expenditures by accurate judicial district breakdown for all categories of services. Marreen Burton asked if case management would be available under recovery support services. Bethany said that there were now going to be three levels of case management and that drug court participants would be eligible for some level of case management. **Bethany Gadzinski moved and Judge Moss seconded that the full continuum of treatment services and recovery support services continue to be authorized for drug court participants, when needed, within available funding, during FY2009. Motion carried.**

Office of Drug Policy / Interagency Committee on Substance Abuse Update

Debbie Field reported on the recent successful effort to achieve a major increase in state funding for substance abuse treatment through an integrated multi-agency budget request. There was unprecedented full legislative support for this funding increase. There is a lot to do over the next several months to prove where we are at and to achieve accountability, efficiency and outcomes monitoring. Debbie thanked everyone for all the work they had done to reach the new funding level. The timeline for the development of the FY10 budget will end with submission by September 1. The Budget Subcommittee of the ICSA will meet on April 15 and the first draft budget will need to be completed by July 15th.

Statewide Adult Felony Drug Court Outcome Evaluation

Dr. Shelley Johnson Listwan joined the committee by telephone to report on finding of the statewide outcome evaluation. The statewide outcome showed 19% recidivism for graduates, 29.5% for all participants combined and 37% for the comparison group. This is a statistically significant lessened recidivism rate for drug courts statewide measured over a one to three year post discharge follow-up period. In addition, the rate of recidivism for the drug court group was maintained when compared to the original outcome study conducted four years ago. **Some of the specific recommendations based on the study include: examine approaches to improving retention rates for younger males with higher LSI scores, intensify treatment for the over 35 LSI score group, reassess participants with the LSI and track the data on the results, standardize the substance abuse assessment instrument used, and clearly outline rewards and sanctions.**

Other Legislative Actions

Patti Tobias reported that another significant Legislative action related to recognizing the need to professionalize misdemeanor probation and to link treatment efforts with misdemeanor probation supervision. She commended Valerie Gardner for her efforts during the session to provide information and education about needs and opportunities. Valerie thanked Debbie for getting the message across that “misdemeanors matter”.

Letters of Intent for New Drug Courts:

Ada County DUI Court

Gooding County DUI Court

Jerome County DUI Court

Judge Duff moved and Linda Wright seconded that Letters of Intent from Ada County, Gooding County and Jerome County to plan new DUI courts be approved. Motion carried

Ada County Drug Court Treatment Facility Approval Plans

Marreen Burton reported that the Ada County Drug Court Treatment program was primarily waiting for the completion of the new facility to finalize state substance abuse facility approval. The projected move-in date in the new facility is no later than October 1, 2008. **Judge Wilper invited the coordinating committee to hold the November meeting in their new facility.**

FY 09 Drug Court Funding and Capacity Allocation Plan

Roland Gammill reviewed the Supreme Court staff proposal for allocation of treatment slots and other support including coordination and staffing funding, drug testing and other operations funding for FY2009. Based on requested slot increases for misdemeanor and DUI capacity and on the past 6 months average utilization rates, the following slot increases were proposed.

District	7/1/08	1/1/09
District 1	No increase	
District 2	Add 20 slots	
District 3	No increase	
District 4	No increase	Add 25 slots
District 5	Add 35 slots	Add 30 slots
District 6	Add 10 slots	
District 7	Add 30 slots	

It will be recommended to some districts which had requested additional slots but which were not at full utilization district-wide that they consider reallocation among courts in the district to provide more slots where the demand is greatest.

Based on reported levels of District drug court funds it is proposed to reduce state funds for operations from \$15,000 to \$10,000 for FY 09 in part to enable expanding available drug testing funding to cover new capacity.

Needs for additional coordination staffing will be further analyzed, including determination of the highest priority for the limited additional staffing funds currently available, and a recommendation will be made to the Executive Committee by the end of August.

Linda Wright moved and Patti Tobias seconded approval of the recommended funding allocation for FY 09. Motion carried.

Policy for Allocation of Approved District Drug Court Capacity

Norma Jaeger distributed a proposal to increase flexibility in using drug court treatment slots for either felony or misdemeanor offenders, as long as the need for drug court for felony offenders is given highest priority. Amy Castro asked if there was a means to track felony offenders on a waiting list or otherwise turned away due to lack of capacity. It was agreed that coordinators should notify the statewide coordinator if their drug court was full and therefore would be unable to take additional felony offenders. Other means to take in felony offenders could include using IC 19-2524 to treat felony offenders in drug courts. Bethany reported that from July 1, 2007 through March 2008 only \$126,000 had been expended for IC 19- 2524 assessments and treatment.

Felony Probation Supervision New Staffing Levels for 09

LSI-R Administration, Training and Quality Assurance

New Drug Use Screening System

Henry Attencio for the Idaho Department of Correction reported on increased funding for Probation Officers will allow adding eleven officers in FY09. Final allocation to various districts will be decided by the end of April. However, District 4 will be allocated at least one new Probation Officer to enable IDOC to provide all LSI assessments for drug court by October 1, 2008. The Department is making significant efforts to assure the accuracy of the LSI's being administered in the department. They have developed a new scoring guide and implemented a computerized quality monitoring process with monthly publication of district by district error rates. This has greatly reduced errors. The Department uses its computer system for administration of the LSI but presently has not developed capability to use it for individuals not committed to the department. Norma Jaeger indicated that previously there had been discussion of using temporary numbers to enable individuals to be entered into the system. Patti indicated it would be very useful to be able to integrate LSI administration for misdemeanors into the same system. **Henry will check on possibilities to enable computerization of LSI administration.** The Department is also pilot-testing a new drug use screening technology using eye scans to detect likely drug or alcohol use. Positive screens are they confirmed using urinalysis testing for confirmation unless the offender admits use.

DUI Court Outcome Evaluation

Scott Ronan reported on the results of an outcome evaluation of four Idaho DUI Courts. This evaluation also showed that these courts had statistically significant reductions in recidivism. The report is currently under submission for publication.

Mental Health Court Implementation

Utilization of Mental Health Courts

Kathleen Allyn reported on efforts to move mental health court utilization to full capacity. Program Managers were charged with utilization targets and they have been working to reach those targets. The

new target is 90% by May 2008. Kathleen distributed a report showing the utilization in each district and the progress since December when the utilization project was initiated.

Mental Health Court Guidelines for Effectiveness and Evaluation

Judge Moss reported that the workgroup had continued to work on the Guidelines for Mental Health Courts. An update is included in the meeting materials. Norma Jaeger reported that the next focus area would be on evaluation data measures and data collection and other aspects of outcome evaluation. Scott Ronan reported that there was a process evaluation design that had been developed with assistance from Boise State University that would include a survey effort this summer. In addition, he has been working on recommended changes to ISTARS for mental health court use and coordinators will also be involved in adding needed elements to ISTARS for mental health court use.

Judge Moss moved and Barry Jones seconded that the revisions to the mental health court guidelines be adopted with reconsideration of the IQ criteria. Motion carried.

Bonneville Misdemeanor Diversion Court – Update

Eric Olson reported on the Bonneville County Misdemeanor Diversion Court for persons with mental illness. It is modeled on the Broward County Florida mental health court. The court takes much lower risk individuals who are generally already connected with treatment in the community. There is no pre-hearing staffing and the usual time in the court is three to six months. If participants are compliant they can have their charge dismissed. The court has served over 100 individuals so far and the court can serve increasing numbers with no increase in resources since the participants are already connected with treatment in most cases.

Judicial Drug Court and Mental Health Court Institute

Norma Jaeger reported on the Institute held January 14 – 15, 2008. Nearly 400 individuals participated. Evaluations were very positive with the following recommendations for the future topics: motivational interviewing, drug testing, sanctions and incentives, separate offerings for attorneys, use of LSI, more specific mental health topics. Judge Wilper commended the program as offering world class faculty, comparable to those who will offer training at the national conference of the National Association of Drug Court Professionals. Norma Jaeger acknowledged the support from NADCP in sponsoring four faculty members. Norma asked committee members and coordinators to let her know of other topics they would like to see at the next conference.

Other Business

Barry Jones indicated that there were growing problems with judges and drug courts ordering individuals to attend AA and NA and expecting reports on participation and asking intrusive questions about participation that were not in keeping with the anonymous traditions of these self help groups. Norma Jaeger indicated she would add this item to the agenda for October with more time to devote to the issue.

The meeting adjourned at 4:05

Next Meeting:

October 10, 2008

Preliminary October Agenda Items:

Utilization and Expenditure Report
FY10 Budget Proposals
Annual Report to Governor and Legislature

Uniform Consent to Disclose Confidential Information
Statewide Drug Testing System Workgroup Report including report on Eye Scan Pilot Projects
DUI Courts Expansion Update
Criminal Justice Treatment Specialty Network Development
Pilot Juvenile Mental Health Court Update
Child Protection Drug Courts Grant Update
Office of Drug Policy Update
 Integrated Substance Abuse Budget
 Implementation of Statewide Standardized Assessment (GAIN)
Statewide Guidelines and Rules for Drug Courts and Mental Health Courts
Update on Ex parte Communication Issue
Use of AA and NA for drug courts

Action Items:

Collect District recommendations on Ex parte communication issue
Convene workgroup to develop recommendations on ex parte communication issue
Communicate and implement FY09 allocations to districts
Implement Grant Funded Child Protection Drug Courts in Districts 5 and 6
Communicate with Child Protection Drug Court Stakeholders Advisory Committee on development of other collaborative efforts between the courts and child protection and treatment services
Resolve District 6 issues with Operations Application Public Defenders concerns
Notify Districts of approved Letters of Intent
Transmit uniform consent issues with to GAIN/WITS workgroup
Follow-up on Strategic Issues from Coordinator Planning Session
Advise District 1 of approval of Letter of Intent for juvenile mental health court and continue to assist in planning and resource development
Continue development of mental health court guidelines, including issue of 70 IQ criterion
Convene drug court guidelines review workgroup and provide with the outcome evaluation recommendations
Communicate issues to GAIN Implementation Workgroup including bypassing BPA screening for County administered GAIN Q, uniform consent issue, sample reports to judges
Communicate policy on continuation of residential treatment and recovery support services
Disseminate list of covered recovery support services and procedures for accessing them
Provide input to development of FY10 budget request for drug and mental health courts
Support implementation of DUI Courts in Ada, Gooding and Jerome Counties
Assess needs for additional coordinators by August 31, 2008
Add breakdown of felony, misdemeanor and DUI to monthly utilization report
Track felony drug court capacity and document utilization and need
Communicate policy on flexibility of use of slots for felony and misdemeanor and that no felony offender should be refused drug court admission because of limited capacity / notify statewide coordinator
Work with IDOC to implement IDOC administration of LSI-R for District 4 drug court
Disseminate Mental Health Court Adopted Guidelines and continue to develop and refine
Convene ISTARS Juvenile Drug Court Workgroup

Monitor mental health court utilization progress and 90% goal as of May 1, 2008
Plan 2009 Drug Court and Mental Health Court Institute