

**Statewide Drug Court and Mental Health Court
Coordinating Committee
October 29, 2010
Idaho Supreme Court**

MINUTES

Next Meeting: April 29, 2011 9:00 – 3:00

<u>Members Present</u>	<u>Members Present by Conference Call</u>
Vice-Chair, Judge Ron Wilper Patti Tobias Kerry Hong Brent Reinke Judge Thomas Ryan Marreen Baker Burton Roger Bourne Sharon Harrigfeld Sharon Burke Roger Christensen Corrie Keller Norma Jaeger George Southworth	Martha Tanner Judge George Southworth Judge Stephen Dunn Suzanne Johnson Burt Butler Eric Olson Linda Wright Kipp Dana Joan Nuxoll
<u>Guests and Staff Present</u> Scott Ronan Kathleen Allyn	Larry Reiner Greg Orlando

Patti Tobias convened the meeting and members and guests present and on the conference call introduced themselves.

Patti Tobias extended regrets from Chief Justice Daniel Eismann who was unable to attend the meeting due to illness. **Judge Wilper has been asked to fill the position of Vice-chair to the Coordinating Committee, the position formerly held by the late Judge Brent Moss.**

Patti Tobias announced that Judge Ron Wilper has been appointed as a Special Judicial Advisor to Drug Courts. She commended and thanked Judge Wilper for his longstanding services as Drug Court Judge in Ada County and his continuing service on the Statewide Coordinating Committee, where he has been chairing the Guidelines Workgroup. **Judge Wilper then assumed the chairmanship of the meeting.**

Minutes of the June 18, 2010 Meeting

Brent Reinke moved and Judge Thomas Ryan seconded approval of the minutes of the meeting on October 10, 2008, as published. Motion Carried

Adult Drug Court Guidelines for Effectiveness and Evaluation Review and Revision

Judge Ron Wilper, Chair of the guidelines review and revision workgroup, reported on their work. The workgroup has received guidance from Dr. Michael Finigan of Northwest Professional Consortium in Portland Oregon. This research group has conducted over 100 drug court outcome and cost-benefit evaluations. This research has shown which aspects of the ten key components are most correlated with effectiveness. The Guidelines Workgroup has continued to review and make proposed revisions to the Guidelines as well as developing recommendations as to which of the guidelines should be made *Standards*. Judge Wilper reminded the committee that the coordinating committee has statutory responsibilities for establishing both *guidelines* and *standards*. It is expected that the guidelines and standards will be reported to the Coordinating Committee at the spring meeting for adoption. Upon adoption it will be important to develop plans for assuring that courts meet the standards and the coordinating Committee will be responsible to assure that through adherence to the Standards the state's drug courts remain effective.

Judge Wilper asked the members of the Coordinating Committee to review the current draft of the Guidelines and provide any feedback as soon as possible.

Norma Jaeger reported that the technical assistance request has been approved by the Center for Court Innovation to provide for additional time from NPC Research to assist in development of a fidelity instrument which will be administered through a peer review process. When developed, this instrument and peer review process will potentially have national application. A presentation on the Peer Review Process will be given at the national drug court conference in Washington, D.C. in July, 2011.

Drug Testing Recommendations

Norma Jaeger reminded the committee of the previously presented need to reduce state expenditures for drug testing. It is proposed that the State Dedicated Drug Court fund provide \$250 per participant for drug testing in FY 2012 with the balance of drug testing costs to be made up by participant fees and existing local drug court fund balances. Patti Tobias described the long range plan for state dedicated drug court funds to pay for staffing for coordination as the highest priority for state funds. Drug testing costs would be an expectation of participants with local funding including local drug court funds covering the local operational support. She indicated that it may take some time to reach this ideal and that as we move in that direction there will be an opportunity for local courts to request and be considered for hardship assistance. Marreen Burton described recent escalation in the costs to the Ada county Drug Court for drug testing resulting from both the use of Spice (a synthetic cannabinoid product) and increased use of prescription opiates. Both are more expensive to test for and are now frequently being detected in their drug court participants.

Kerry Hong reported on the work of a subcommittee established to explore feasibility of local jurisdictions establishing their own laboratory capability for drug testing. A recent site visit was made to Logan, Utah where there is such a county operated laboratory. There are vendors who will provide the laboratory equipment, training and technical support, where these costs are financed through the purchase of the supplies and chemicals used in the testing process. With the potential of a statewide contract to purchase these materials even lower unit costs could be achieved through the volume generated. Such

labs have been able to also provide their services to other entities in the community and actually generate a profit.

Roger Christensen expressed concern about the long range plan for covering drug testing and the idea that county resources would be available to cover such costs. Counties are struggling in the current economic climate and scarcely a resource for greater support for court operations. Brent Reinke expressed the view that we must have the specialty courts in order to maintain the current balance of offenders and prison space. He estimated \$33 million in cost avoidance to the prison system coming from specialty courts and community treatment. Kathleen Allyn described the role of the mental health system in maintaining support for mental health courts as a part of that balance and the concerns that with the \$2.5 million loss in the community mental health budget, the system is now really only able to respond to crisis needs and court ordered services. Roger Christensen described the concern of counties that the cost avoidance included a significant cost shift from the state to counties. Corrie Keller reiterated that the stability of the problem-solving courts is essential and that effective coordination is critical to that stability. Substantial funds are available to many of these courts from the fees that participants have already paid.

Patti Tobias moved and Corrie Keller seconded that the Drug Court and Mental Health Court Coordinating Committee set a tentative FY2012 drug testing allocation of \$250 per drug court participant to come from State Drug Court Dedicated funds with the balance of costs of drug testing coming from participant's current fees and local drug court fund balances, while allowing a court that is unable to finance appropriate testing to submit a hardship application for additional state funding assistance.

Judge Stephen Dunn questioned whether eliminating drug testing from state funding is really the correct policy. Marreen Burton asked if this reduced funding applied to both drug and mental health courts. Norma Jaeger answered that at present only to drug courts as mental health court clinical eligibility standards mean that more mental health court participants are disabled and less able to be employed. Burt Butler expressed view that continuing to support problem-solving courts with a 50 – 50 partnership between state and county was an important concept and that annually reviewing the local drug court fund balances should be a part of the policy. It was concluded that it would be useful to develop a clear document describing the overall funding structure for problem-solving courts including analysis of existing fund balances and participant payment capability and to review that document at the April meeting to determine how to move forward with the concept.

Roger Christensen offered a substitute motion and Corrie Keller seconded that a preliminary study of the proposed FY2012 and ongoing allocation from dedicated funds for drug testing be reviewed for final approval in April 2012. Motion Carried.

Status of Substance Use Disorder Treatment Funding and Interagency Committee (ICSA) Update
Sharon Burke, Acting Director of the office of Drug Policy reported on the status of substance use disorder treatment funding. FY2010 had a difficult end with the state spending nearly 5 million dollars more than appropriated in the year for treatment. This resulted in bills having to be paid for last year's treatment out of this year's funds. This in turn, will result in reduced fund availability for FY 11. Current expenditure reports show the substance use disorder treatment costs still running about 6% over the current allocation. The state did receive an Access to Recovery Grant that will provide for added treatment for some targeted populations including misdemeanor offenders and National Guard members and families, plus juveniles reentering community jurisdiction from state commitment. The grant will also enable continued work on implementing an automated management information system for the substance use disorder system. One immediate policy approved by the Interagency Committee on Substance Abuse Prevention and Treatment was elimination of payment for residential treatment for the

felony populations (who should be able to receive care at the Department of Correction CAPP program, which provides substance abuse treatment.) Sharon pointed out that drug courts have good tools for budget (expenditure) management with local accountability. Proposals exist for developing similar local accountability for other client populations. Scott Ronan referred committee members to the “Snapshot” of expenditures included in the meeting materials but pointed out that the drug courts are currently using a slightly different allocation figure than represented in the Snapshot.

Sharon also reported on work that has been done by a state level task force to redesign the state mental health system, including integrating substance abuse and mental health in a more unified system, including some changes in scope of the interagency committee itself. Updated information on Mental Health Transformation will be presented at the April meeting, when more final planning has been completed and legislative action is known. Debbie Field is expected to return to the position of Director of the Office of Drug Policy in December from a leave of absence.

Treatment for Drug Court Participants

Norma Jaeger presented a proposal to establish a policy of authorizing drug court participants at the Outpatient Level of Care, which allow up to 8 hours of treatment per week, rather than authorizing treatment at the Intensive Outpatient Level of Care which allows for 9 – 20 hours of treatment per week. This change would acknowledge the numerous other therapeutic activities engaged in by drug court participants besides formal treatment activities. Norma stated that she had requested input from Doug Marlow who reported that he is unaware of any data to show that intensive outpatient provides superior results to outpatient and observed that the logic of including other drug court activities in the calculation of time spend in therapeutic activity was reasonable. He did state that there were studies that did show that persons assigned to a lower level of care initially than the assessment indicated did poorer but that these studies did not consider a drug court population. Marreen Burton reported that the Ada county Drug Court has always used outpatient level of care. Kipp Dana reported that the 7th District Drug Court Treatment Program had moved to an outpatient level of care in April 2010 and had not observed any negative consequences. Patti Tobias asked if this policy proposal is budget related or outcomes related. Norma answered that it is primarily budget related as we attempt to assure that every dollar spent is well spent in achieving the outcomes we desire. Patti also questioned if our proposal would have impact on other parts of the treatment system. Kerry Hong suggested we approach the American Society of Addiction Medicine about specific treatment recommended level of care for the drug court population.

Patti Tobias moved and Kathleen Allyn seconded that the Coordinating Committee approve the proposal to limit drug court treatment authorization to Outpatient Treatment, subject to development of an implementation plan with a “safety valve” shielding providers from negative audit findings from BPA relating to their providing a substitute level of care that might differ from that identified in the clinical assessment process. Motion Carried

Engaging Counties in Support of Problem-solving Courts and Community Sentencing Alternatives

Judge Wilper led a discussion of potential strategies for engaging counties more actively in development and support of problem-solving courts. Judge Wilper reported on a study done in Ada County showing that drug court participants spent only 1/3 the time as other similar offenders. Burt Butler pointed out that it is more difficult to make a financial case for counties for the felony population but clearly there is a financial savings case to be made to counties for misdemeanor and juvenile populations. Roger Christensen stated that commissioners are not only concerned with budgets and dollars. They also care about the other positive outcomes to their constituents and their communities. It was pointed out that it would be ideal for Patti Tobias to go around the state and talk to commissioners. Trial Court Administrators and engaged judges also are a key part of the effort. Sharon Burke suggested it was very well received when the courts go to the Counties conferences. There are “champions” among

commissioners who have had positive personal experiences with problem-solving courts. Judge Wilper stated that the recent presentation by General Barry McCaffrey at the Judicial Conference was very inspirational and the sort of presentation that would reach commissioners. Scott Ronan indicated to the committee that there are two recent studies conducted by NPC Research on effectiveness of drug courts. Inviting Commissioners to attend graduations is always a good practice including asking them to speak and acknowledging their presence. Planning to attend the Idaho Association of Counties meeting to give a presentation and bring a graduate or two. Patti announced that Dan Chadwick had agreed to work with her to develop and convene a Counties and Courts Committee in the near future to further work toward greater understanding. Roger indicated that at least to percent of the commissioners across the state would be new in the coming year.

Legislative Change in Drug Court Eligibility

Patti Tobias asked the Committee on behalf of Chief Justice Eismann how they would feel about an effort to remove the current categorical exclusion on persons with prior or current violent felony charges. This is being considered for part of the court's Legislative effort this year. The plan is to develop a proposal that would provide courts with more flexibility while each local drug court would maintain their statutory responsibility to set their own acceptance criteria. Lively discussion included comments about assuring attention to victim's rights, safety of staff, provider and probation officer concerns and prosecutor concerns. There was some agreement that better defining the specific crimes of violence that would remain exclusionary. Judge Southworth suggested looking at the "juvenile waiver" language. Judge Ron Wilper and Judge George Southworth and Prosecutor Roger Bourne offered to work on language for such a statutory change proposal.

Updates

Norma Jaeger directed the committee's attention to the written summary of updates included in the materials. (attached).

Meeting Adjourned at 12:20 pm Next Meeting April 29, 2011 9:00 – 3:00

Action Items

Revisions to Adult Drug Court Guidelines for Effectiveness and Evaluation
Develop comprehensive problem-solving court funding report and plan
Develop plan for state dedicated drug court fund drug testing allocation
Develop implementation plan for authorizing treatment at outpatient level of care
Develop plans for expanding county engagement

Preliminary Agenda for April 29, 2011

Adopt Revised Statewide Guidelines and Standards for Drug Court Effectiveness and Evaluation
FY2012 Budget Allocation Recommendations
Chief Justice's Criminal Justice Mental Health Initiative
Evaluations of Juvenile Drug Courts and Mental Health Courts
Update on Veteran's Court Development
Legislative Report

Drug Court and Mental Health Court Update

Sliding Fee Scale Implementation for Drug and Mental Health Court Participants

At the last Coordinating Committee meeting there was discussion of the process of implementing the use of the sliding fee scale for drug court participants to pay a portion of the cost of their treatment based on income. A few complications were discussed. Two of these have been resolved. Drug and Mental Health Court participants will not be required to utilize insurance they might have. Typical benefits are so minimal and applicable deductibles so high that accessing insurance to cover treatment costs was felt to not be cost effective use of limited staff time anywhere in the system. In addition DHW has reached a policy clarification stating that an adult who moves in with other family members (such as parents or siblings) will have his or her income calculated only on the basis of personal income or in some cases income with a spouse but not on the entire family living in the home.

Regional Drug Court and Mental Health Court Institutes

Through a Bureau of Justice Assistance Grant we will be holding three regional Drug Court and Mental Health Court Institutes: Pocatello November 18 – 19; Boise January 19 – 20; Post Falls April 21 – 22. Coordinating Committee members who would like to attend will be most welcome and will be able to register without charge. To get a registration form contact Kim Woods at kwoods@idcourts.net. See Agenda in the meeting materials.

Statewide Drug Court Enhancement Grant

We are working on implementing a statewide grant to enhance certain operations of our drug court system. The grant will fund the regional conferences and the development of a Peer Review Process that will establish a research based fidelity review tool and train selected and volunteer drug court coordinators to use the tool to assist other drug courts determine how closely they are adhering to evidence-based practices in their courts. This will also be tied to the effort to update the Statewide Guidelines and establish certain drug court standards. Other elements of the grant will include getting assistance in developing a judicial training for new problem-solving court judges and developing some new reports in the ISTARS system.

Bureau of Justice Assistance Grant for Justice - Mental Health Collaboration

We have also received another Bureau of Justice Assistance grant, beginning in October 2010 or soon thereafter, to continue the planning work previously begun under the Chief Justice's Criminal Justice Mental Health Leadership Initiative. A particular focus of this grant will be mental health needs of women convicted of felonies and veterans justice system, as well as continued research into evidence based practices for persons with mental illness and co-occurring disorders.

SPICE - Statewide Survey of use of Spice by drug court participants

We surveyed drug and mental health courts around the state to determine their experience with the new drug SPICE. A report of the findings is included in the meeting materials. In summary, out of the 55 courts that responded to the survey, 20 courts had tested for spice, 35 had not. The total number of participants tested was 408 of which 150 or about 37% tested positive. The Office of Drug Policy has been working hard on this issue with the result that Spice has now been covered as a scheduled and illegal drug.

Veteran's Court Planning Activities

Based on the work of the Chief Justice's Criminal Justice Mental Health Initiative, exploring the need for and feasibility of a veteran's court has continued to receive attention. A significant number of veterans' service providers and veterans' advocates have been involved over the past few months, under the Chairmanship of the Chief Justice. Ada County appears to be a likely jurisdiction for a pilot veteran's Court should resources be available. An application was submitted to the National Drug Court Institute on behalf of Ada County to be trained

in the methodology of a veteran's court. The result is that the Ada County team is on a waiting list for a training to happen later in 2011. It is highly likely that grant funding will be available in the early winter for such courts and an application on behalf of Ada County is a possibility.

District 3 has also expressed interest in a veteran's court and representatives from the Third District have attended the planning meetings.

Access to Recovery Grant and Substance Use Disorders Budget for FY2011

Idaho has been selected as an ATR III grant recipient. The Department of Health and Welfare received notification on September 30, 2010, that Idaho, along with 29 other grantees, was chosen through a competitive application process by the Substance Abuse and Mental Health Services Administration (SAMHSA)/Center for Substance Abuse Treatment (CSAT). As an award recipient, Idaho will receive approximately \$13,095,600 to be divided over the 4-year grant period. While we're excited and feel fortunate for Idaho to have been selected, there are many details to address. The grant is targeted at three special populations: misdemeanor offenders, Idaho National Guard members and families and youth transitioning back to the community from the Department of Juvenile Correction.

The budget for SUD treatment will continue to be very tight. Fiscal Year 2011 started the year with \$17,224,000 in the treatment budget. The legislature only cut about \$900,000 from the previous year's appropriation which was a favorable outcome when one considers the revenue shortfall they were working with. However, because FY 2010 was considerably over-spent, that over-spend had to come from the FY 2011 appropriation. ICSA made decisions regarding how the FY 11 funding will be budgeted amongst priority client populations. They also made the decision that the only felony clients who will be able to access residential treatment will be pregnant women. This was a hard decision to make, but with the Idaho Correctional Alternative Placement Program (CAPP) coming on-line, it was seen as a way to stretch a very tight budget.

Spending in FY2011 for treatment services has continued to outrun the budget however, meaning that there will need to be continued strict management of expenditures. BPA has been asked by ICSA to intensively review clients clinically before authorizing continued care. Drug Court Coordinators will be provided monthly expenditure reports by client and provider to enable them to more directly monitor treatment expenditures. Norma Jaeger has proposed limiting drug court treatment services to the upper limit of outpatient level of care (8 hours per week) and the guidelines workgroup has been considering other strategies for more specifically defining the treatment element of drug court as a part of the overall drug court treatment budget management process.

Annual Report

Drug Courts and Mental Health Courts are required by our statute to provide an annual report to the Governor and Legislature on the first day of the Legislative Session. A copy of the proposed report is included in the meeting materials for this meeting, highlighting some of the many accomplishments of drug courts and mental health courts in the past fiscal year (2010)

Evaluations of Mental Health and Juvenile Drug Courts

Scott Ronan continues to collect data on the Juveniles in the statues Juvenile Drug Courts with about 85% of the needed data having been provided on the treatment group. The next step is the selection of the comparison cases and collection of comparable data on that population. The target date for the draft report on Juvenile Drug Court outcomes will be the April meeting.

The Process Evaluation for the State's Mental Health Courts is nearing completion. It is now awaiting submission of draft data tables to the Mental Health Court Coordinators and Trial Court Administrators for their review and comment and completion of the final report. This evaluation will also be presented at the April meeting and will pave the way for a mental health court outcome evaluation to be conducted beginning in the fall of 2011.