



Treatment Court Committee Meeting Minutes

Location: Lincoln Room, Idaho Supreme Court Building
Date: February 8, 2024
Time: 9:00 a.m. to 4:00 p.m., MT

Committee Members:	Committee Members Not Present:
Justice Gregory Moeller	Judge Nancy Baskin
Judge Rick Carnaroli	Director Josh Tewalt, IDOC
Judge Michelle Evans	Jared Larsen, Governor's Office
Judge David Hooste	Liza Crook, Idaho Depart of Juvenile Corrections
Judge Darren Simpson	Idaho Supreme Court Staff:
Judge Eric Wildman	Sara Omundson
Judge Thomas Whitney	Jason Spillman
Judge Keisha Oxendine	Scott Ronan
Commissioner Brett Reinke, Twin Falls	Ryan Porter
Dr. Magni Hamso, Medical Director, Idaho Dept of Health & Welfare, Division of Medicaid	Darci Dickinson
Jason Dye, Trial Court Administrator, District 6	Sandy Jones
Scott Bandy, Chief Deputy Prosecutor, Ada County	Marc Crecelius
Joanna McFarland, Public Defender, Nez Perce County	Lynn Proctor
Ross Edmunds, Idaho Division of Behavioral Health	Lorrie Byerly
Jennifer Romero, Restored Paths	Michele Crist-Aguiar
Marreen Burton, District Manager	Charina Newell
Lisa Martin, District Manager	Cherie Carter
Aimee Austin, District Manager	Guests:
Ron Christian, District Manager	Director, Mohan Rakesh, Office of Performance Evaluations
Jared Marchand, District Manager	Lacey Clark, Office of Performance Evaluations
Israel Enriquez, District Manager	Robert Thomas, Thomas Consulting
Angela Reynolds, District Manager	Judge Anna Eckhart
	Karlene Behringer, Trial Court Administrator, District 1
	Tristan Poorman, Prosecuting Attorney, Kootenai County

Welcome, Introductions, and Minutes Approval

Chair, Justice Gregory Moeller, welcomed everyone, introduced new members, Judge Keisha Oxendine and Jason Dye, reminded membership of the charge to the Committee, and indicated the membership order in the meeting materials was approved in Oral Conference.

Review of the September 13, 2023 minutes

On page 5 in the last paragraph, Judge Garner needs to be changed to Judge Gardner.

MOTION: It was moved by Judge Simpson and seconded by Judge Carnaroli to approve the minutes of the September 13, 2023 meeting, as amended. The motion passed unanimously.

FY24 Budget-Report

Scott Ronan provided a review of the Idaho Treatment Court expenditures for FY24. Of note, Substance Use Disorder (SUDs) treatment fund expenditures are more closely aligned with the budget. Statewide Residential and Recovery Support Services (RRSS) spending is higher, which was predicted due to all residential providers being in the Medicaid network. Treatment Court staff have reached out to those providers and are following the spending closely.

Michele Crist-Aguiar, the Chief Financial Officer, reviewed revenues, current expenditures, enhancements, cash and prudent reserves in key areas. In each of the last three years, treatment courts have seen increases of \$200,000 for coordination, \$340,000 in treatment funds, and \$148,000 for drug testing. Funds built into FY24 for coordination, testing, and treatment for a new veterans' treatment court, which would continue to be available in FY25, contingent on the Supreme Court's approval of that court.

Scott briefed the Committee on high priorities in the next two years, including addressing a potential rate increase in treatment services due to a new managed care organization contracting with the Idaho Department of Health and Welfare (IDHW), and the need for the Court to contract with a managed care entity in the coming years as well. We do not have a timetable yet, but BPA Health will no longer be the oversight body working with providers, and WITS will eventually go away. We will need to be thoughtful about when we should get into a conversation with a managed care organization to help us with oversight in managing those funds effectively. We cannot have that conversation until some pending court cases filed by other entities not a part of the contract have been resolved.

Justice Moeller welcomed Rob Thomas, a consultant working with the Office of Performance Evaluation (OPE) and had him introduce himself and the Director of OPE, Mohan Rakesh and Lacey Clark from OPE. Mr. Thomas thanked the Committee for the invitation and said they were invited to attend the meeting because they will be doing a survey analysis of diversion and prevention programs on behalf of the Idaho State Legislature. He said they will look back on several items from this Committee meeting to learn what treatment courts do and how they function. One of the things he said they want to learn as they work with various stakeholders is what kind of things the legislature might need to know that they don't know about what is going on in this environment.

FY25/26 Budget Update to the Committee-Recommendations

Scott reviewed the Treatment Court Committee Budget Priorities for Enhancements and asked the Committee to identify their top three priorities by rank for FY25/26 from the categories of Drug Testing, Treatment, Coordination, RRSS, Transitional Housing, New Courts and Three Low Risk/High Need Tracks in Existing Treatment Courts. After receiving input from each of the judicial districts, a consensus was reached without the necessity of a vote that the first priority is both Treatment and Drug Testing, the second priority is Transitional Housing, and the third priority is Coordination. It was acknowledged that the Committee's input is incredibly valuable and all areas will continue to be reviewed as budgets and plans are revised in the coming years.

Idaho Rules for Treatment Courts (IRTC) Workgroup-Recommendations

The Treatment Court Committee Workgroup (WG) reviewed the recommendations for Rule revisions and asked the Committee for comments and a recommendation to bring the rules before the Court with the following changes:

Rule 17(c) The Treatment Court Judge may preside over the termination proceedings. If the Treatment Court Judge elects not to preside over the termination hearing, the Treatment Court

Judge shall forward the matter for reassignment within the same judicial district as the Treatment Court.

Rule 18

(d) If the judge that presided over a participant's termination proceedings elects not to preside over a participant's sentencing or disposition proceedings or the judge does not have the authority to preside over a felony sentencing or disposition proceedings, the judge shall recuse and refer the matter for reassignment within the same judicial district as the Treatment Court.

(e) If the participant was admitted into a Treatment Court by means of a transfer of supervision as set forth in I.R.T.C. 11(a)(2), the case shall be set before the original sentencing judge or referred for reassignment within the original judicial district.]

ACTION ITEM: A concern was raised regarding a possible discrepancy in rules of transfer between the IRTC and Criminal Rule 20. Even though the IRTC rules apply to every treatment court situation and IRTC 1(c) says the IRTC controls when there is a conflict, Justice Moeller suggested a referral be made to the Criminal Rules Workgroup regarding the scope of Criminal Rule 20.

MOTION: It was moved by Judge Oxendine and seconded by Scott Bandy to adopt the amendments to Rules 17(c) and 18(d) and (e). The motion passed unanimously.

Rule 20

After discussion, the Committed revised 20(c)(1) to read:

(c) A neutral discharge shall not be grounds for termination nor grounds for a finding of a willful violation of the terms of probation. ~~the filing of a probation violation revocation of probation.~~

MOTION: It was moved by Judge Wildman and seconded by Scott Bandy to approve the revisions to 20(c) as amended by this body. The motion passed with one vote in opposition.

(d) Upon a neutral discharge, the participant's underlying case will be assigned as follows:

(1) If the case is before the Treatment Court Judge by assignment within the judicial district or by transfer of supervision, the case shall be referred back to the ~~originating sentencing court~~ or referred for reassignment within the original judicial district.

After discussion, the Committee made no changes to Rule 20(d)(1).

MOTION: It was moved by Scott Bandy and seconded by Marreen Burton to approve amendments to Rule 20(d)(1) as written. The motion passed unanimously.

MOTION: It was moved by Judge Whitney and seconded by Judge Hooste to accept changes made to Rule 20 in toto. The motion passed unanimously.

Stipulation to Change Venue, Order for Transfer of Supervision and Order of Change of Venue

Some districts raised questions regarding transfer/supervision issues. In response, the WG drafted the following district forms for use: Stipulation to Change Venue, Stipulation for Transfer of Supervision, Order Regarding Change of Venue for Participation in Treatment Court, and an Order Regarding Transfer of Supervision for Participation in Treatment Court.

MOTION: It was moved by Judge Simpson and seconded by Scott Bandy to accept the forms as statewide non-mandatory forms districts can change. The motion passed unanimously.

Scott said at the 2024 Treatment Court Conference (Conference) on May 9-10, the WG will participate in a panel presentation overview and question and answer session about the IRTC. In response to questions, Scott said disclaimer language was added to the bench card on termination and sentencing/disposition that was approved at the last Committee meeting since it will be posted publicly and it is ready to be put on the Court's website.

Mental Health Court Update

Darci Dickinson advised the Committee on the status of Mental Health Courts (MHC) transitioning to work with private providers, and each of the districts provided feedback:

District 1: The Kootenai County MHC transitioned in 2020, and all the MHCs are now transitioned. The contract is signed and communications between IDHW, the provider and the courts are great.

District 2: Their MHC transition is going well.

District 3: They have been under contract for a year with a provider who has great services, including medical management, case management, peer support, individual counseling and provides treatment six days a week.

District 4: They are in a second round of contracts since they have had contracts in place for several years.

District 5: They have a mental health and a SUD provider for their MHC, and it seems to be working well. There is a challenge transporting between the two providers but they are working well to communicate and coordinate participants' classes to minimize schedule conflicts.

District 6: This is the first week with a new provider and the transition between the provider and participants is going smoothly. Time was taken at the last MHC for a meet and greet between the team and the participants.

District 7: Their MHCs fully transitioned, things are going well, and there are no complaints.

Mental Health Court (MHC) Summit

Darci identified that the agenda for the upcoming MHC Summit is based on the content of responses from MHC staff from an education assessment. The first day of the summit will be educational and the second day will be an operational tune-up workday. The Court has budgeted for judges, coordinators, prosecutors, public defenders, probation officers and team members to attend in person.

Eligibility Criteria and Funding

There is an opportunity to explore increasing access to MHCs due to a new contract with a managed care organization. Historically, funding was limited for those in MHCs with only certain mental health diagnosis; however, that excluded some individuals that otherwise met criteria for higher risk and needs but were diagnosed with obsessive compulsive disorders. IDHW was able to share this comment with the new managed care organization as they continue implementing the contract.

Important Updates in Key Areas:

- **Solicitations and Donations for Participants**

Scott shared a February 2, 2024 draft memo entitled Idaho Supreme Court Policy Guidance: Solicitations, Donations and 501c3, prepared by a workgroup chaired by Justice Moeller. The Director of Human Resources and TCAs reviewed the draft document and provided feedback. The guidance in the draft document applies mainly to treatment courts, with some considerations and applicability to other court service programs..

The Committee discussed how to allow coordinators or court staff to solicit donations if they are under a judge's direction and whether the workgroup could provide guidance on that by working within the Idaho Code of Judicial Conduct without changing the cannons or adding a comment to them. The consensus of

the judges on the Committee was that the document is helpful, but with judicial cannon 2.12, courts would not be seeking or receiving donations unless the cannons addressed the definition of “court staff.”

ACTION ITEM: Scott will provide a draft that includes consideration of participant community projects that may include donations, to Justice Moeller for review and next steps, including potentially forwarding to the judicial council for their review.

- **Housing Memo**

Scott said the Court was provided an example and memo addressing transitional housing at the January Oral Conference. Depending on the discussion of the Court, there may be revisions to the approach and an opportunity to identify any available funds and see if they can be addressed in FY25 or FY26.

- **Data Improvement Dashboard**

Scott shared a graph indicating a monumental increase in data quality in a short period of time with some jurisdictions close to cleaning 80-100% of five years of data and with an overall data and quality increase in September of 23%. When data is at a quality level, it will allow the Committee and treatment courts to receive information on its effectiveness and inform any improvements or areas to address.

Treatment Court Quality Assurance

Ryan Porter reported on the creation of a workgroup that reviewed and revised the quality assurance survey questions. A few volunteer treatment court teams with different stakeholders are needed to test, provide feedback, and allow the surveys to be put to a scoring matrix before coming back in the fall. Scott said if testing goes according to plan, and adjustments are made, the survey could be administered in the spring

Ryan replied to Committee questions saying Idaho was well ahead of the curve on certification compared to other states, and that Volume 1, Edition 2 on national standards put out by All Rise, has some differences but is not overwhelmingly different from Idaho’s standards. He suggested the Committee agenda in the Fall examine whether to revise Idaho standards based on the new research. Regarding questions of their impact on policy and procedure, Judge Hooste indicated the IRTC WG took some of the standards and made them into rules and, to the extent Idaho standards were upped, they will trump the national standards and old existing Idaho standards.

District by District-Report

District 1: Judge Mitchell is passing the gavel to Judge Walsh on October 1st, and he will remain the backup judge for MHC. Finding providers in rural areas is difficult, and Shoshone County uses Telehealth. Drug testing has been an issue so they are making some changes. They are coordinating with Jennifer Romero from Restored Paths to figure out how to meet the need for providers. The first Oxford House is opening, and they have SIMs in May. They would like to have recovery coaches attend the Conference. Scott advised when the Conference registration is open, he will send a link for a recovery coach to attend.

District 2: All eight treatment court programs are at capacity except the VTC is at 50% capacity. Housing is an ongoing issue with new participants being housed in jail and are released for treatment and job search while they work on the program until they secure housing. They are adding fentanyl panels to testing, and two jurisdictions have agreements with counties to provide opioid settlement funds to cover costs of fentanyl testing. Latah County is working with their board of county commissioners to provide ongoing education funds for their team members from opioid settlement funds so they can attend the All Rise Conferences. They have risen from the bottom to the top in cleaning data elements.

District 3: Their rural courts are struggling with housing, and the new courts are still struggling. Their MHC needs more funding because it needs to grow by 20%, and they are working on a second MHC to serve three counties. They look forward to bringing that to fruition. They had two counselors that quit for more money elsewhere but came back in six months.

Supreme Court funding being extended to send more attendees to the annual All Rise conference was bought up and discussed. Angela Reynolds shared that each Idaho Health District has opioid funds from

which treatment courts can apply through a grant to send their treatment teams to the conference. She volunteered to provide information on applying for the grants. In District 4, probation officers were funded by IDOC to go. It was mentioned there is proposed legislation to limit state-funded enrollment of state employees in memberships to national associations like All Rise which could limit the ability to attend All Rise, so in-house training may need to be relied upon more. Scott discussed state fund parameters and that leadership sent to the national conference share their knowledge gained with others in state conferences and trainings that are free.

ACTION ITEM: Scott will address the topic with IDOC leadership of probation officers attending All Rise conferences at the next IDOC/ Courts coordination meeting.

District 4: After a decade working to get a new treatment court treatment center running, they are making progress and will have walls and sheetrock done in July on a place by the airport. They had three drug court graduations with 25 people.

District 5: They are waiting for appointments for Jerome and Mini-Cassia County to replace Judge Tribe. Until then, Judge Wildman is covering Mini Cassia as he can. Octavio Diaz is their new DUI court coordinator. He is working on getting old data from participants' missing data elements and has implemented eligibility criteria for people coming into DUI court. Issues of getting funding from the Veteran Administration have been addressed with a plan. Their drug court is at capacity and rural drug courts at 60% capacity.

Israel Enriquez requested guidance on a couple of issues. 1) Whether under Idaho Code §19-5604 a prosecuting attorney has to give their consent for applicants to apply for VTC or MHC when they are charged with, pled to or have been adjudicated for crimes of violence or where a weapon is used. The Committee discussed the statute applying to drug courts only and that case law, citing *Easley*, says sentencing to MHC as a condition of probation is an exercise in judicial function a prosecutor has no right to veto. 2) In DUI Court, a public defender will not represent an applicant to file for a restricted driver's license permit because insurance will not provide coverage in case of malpractice. The Committee discussed that the public defender was a part of the legal team and not a private lawyer, it was not giving legal advice and the application is done on a fill-in the blank form.

District 6: They had a lot of turn over, made some good hires, and hired a coordinator for the Bannock County Felony Drug Court. Their MHC transition is almost complete. Now that they have a new coordinator, they will work on data.

District 7: Judges Dewey and Taylor are new judges transitioning in. They are excited to work with the Center for Hope and have two other programs that help promote recovery and community, giving participants a place for community engagement, prosocial activities, and fellowship. They reached out to District 6 treatment courts that have an excellent Spanish-speaking counselor to help with Spanish speakers in their district, and a tele help group for Spanish speakers is being put together that will start next week.

Kootenai County Veterans Treatment Court Status

Judge Eckhart, Karlene Behringer, and Tristan Poorman, Kootenai County Prosecuting Attorney's Office, presented information on the new Veterans Treatment Court, saying all the stakeholders/team members are on board, the handbook is ready, and they are seeking a motion to recommend sending this to the Court for their approval. Karlene shared the reasons for the need for a VTC in Northern Idaho. They are starting with misdemeanor cases and if approved will expand to felonies as well, in coordination with Felony Probation & Parole. Scott informed the Committee that pursuant to IRTC 3, the required documentation and signed MOU from key stakeholders was submitted, reviewed, and met the requirements. The proposed start date is July 1, 2024. Funding in place from the state would need to be prorated if the VTC starts earlier.

MOTION: It was moved by Judge Carnaroli and seconded by Judge Wildman to recommend the Idaho Supreme Court approve the creation of a Veterans Treatment Court in Kootenai County. The motion passed unanimously.

Justice Moeller thanked the Kootenai County team for coordinating and working well together. The recommendation will be sent to Oral Conference in the next few weeks and the Committee will be informed when it is voted on and approved.

Three-Year Strategic Plan for Idaho Treatment Courts-Report

Darci Dickinson shared progress made on the Idaho Treatment Court Committee Three-Year Strategic Plan. Full training for coordinators, building stakeholder education training publications/videos and creating video clips applying the IRTC to proceedings for the Conference, as well as materials supporting the rules are being developed. The MHC Summit and the Conference will have plenary and breakout sessions devoted to team roles to ensure team sustainability by clarifying and educating on treatment court team members roles and responsibilities. Darci plans to have sample policies, procedures and a handbook available at the July 2024 Treatment Court Workgroup meeting. She thanked courts who provided her references of their documents and policies centered around team roles.

Scott informed the Committee that leadership and TCAs want to explore a statewide drug testing contract with a district opt in/opt out approach, so he will be asking at a high level what your costs are for personnel, supplies and labs and the source of funding for those costs.

Education-Update and Recommendations

April 4-5, 2024 Statewide Mental Health Court Summit – a draft agenda is included in the meeting materials.

May 9-10, 2024 The statewide 2024 Treatment Court Conference will be held for a day and a half at the Riverside Hotel following the District Judges' Conference. The Conference will be face-to-face, and Jim Eberspacher, the Director of Impaired Driving Solutions, has been added to the agenda. Several plenary sessions will be held on day one with interactive sessions on day 2. Registration information will be sent out in the next few weeks, and the state will fund travel for Judges, TCAs, District Managers, and Treatment Court Coordinators. There is no registration fee but other team members are responsible for their travel.

Darci informed the Committee that nominations for the Justice Eisemann Award are closed, and the nominations will be reviewed by the workgroup in a few weeks.

Justice Moeller advised that Lorrie sent out Save-the-Dates for the September 12, 2024 fall Committee meeting and the February 27, 2025 Spring Committee meeting. Please bring any serious issues to Darci's or Lorrie's attention if there are problems with the dates.

Motion to Adjourn

MOTION: It was moved by Judge Wildman and seconded by Lisa Martin to adjourn the meeting. The motion passed unanimously. The meeting adjourned 3:13 p.m., MT.

Next Meetings:

September 12, 2024

February 27, 2025