

MINUTES

ADMINISTRATIVE CONFERENCE

Monday and Tuesday, February 3-4, 2014 // Boise, Idaho

The Administrative Conference was called to order on Monday, February 3, 2014, at 1:30 pm MST by Chief Justice Roger Burdick. Administrative District Judges in attendance included: Hon. Lansing Haynes, Hon. John Stegner, Hon. Tom Ryan, Hon. Timothy Hansen, Hon. Richard Bevan, Hon. Stephen Dunn, Hon. Jon Shindurling, and Hon. Darren Simpson. Trial Court Administrators present included: Karlene Behringer, Hon. Jay Gaskill (acting), Dan Kessler, Larry Reiner, Linda Wright, Suzanne Johnson, and Burt Butler.

Other members joining for all or part of the Conference included: Justice Daniel Eismann; Court of Appeals Chief Judge Sergio Gutierrez; Hon. John Butler, President – District Judges Association; Hon. Michael Oths, President – Magistrate Judges Association; Hon. Rick Bollar, Past-President – Magistrate Judges Association; Hon. Kent Merica – Secretary/Treasurer, Magistrate Judges Association; Roland Gammill; Janica Bisharat; Andrea Patterson; Kevin Iwersen; Taunya Jones; Michael Henderson; Deena Layne, Cathy Derden; Kerry Hong; Judge Russell Comstock; Viki Howard; Senior Judge Michael Dennard; Senior Judge Barry Wood; and Patti Tobias.

The Conference welcomed soon-to-be 7th District Administrative District Judge Darren Simpson (his term commences on April 1, 2014), and Judge John Butler, the new president of the District Judges Association.

The Mission Statement, Values, and Strategic Goals and Major Objectives of the Idaho Courts and ICAR 43A were reviewed.

A. Approval of Minutes of the October 17-18, 2013 Administrative Conference

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE BOLLAR TO APPROVE THE MINUTES OF THE OCTOBER 17-18, 2013, ADMINISTRATIVE CONFERENCE. THE MOTION PASSED UNANIMOUSLY.

To ensure Administrative Conferences are accomplishing the necessary work for the judiciary, a survey will be administered to all Administrative Conference members following each meeting. The proposed survey questions were reviewed and will be used for the first survey following this meeting.

Action Item

- Administrative Conference members will be surveyed following each meeting, and the results will be included on the next meeting agenda.

B. Supreme Court Action on Administrative Conference Recommendations and other Supreme Court Updates by Chief Justice Burdick

Chief Justice Burdick reviewed action taken by the Supreme Court, including:

1. The recommendation to submit the FY15 budget request as outlined was approved by the Court. The FY15 Budget and Legislative Priorities document was included in the materials.
2. The recommendation to propose amendments to I.C. §§15-5-209, 15-5-312, 15-5-418, 15-5-419, 66-405, 313201G, and 15-5-308 was approved by the Court, and submitted to the Legislature. The letter to the germane committee chairs was included in the materials.
3. The recommendation for the Court to seek amendments to existing statutes and enact new statutes designed to strengthen community supervision of probationers, adopt evidence-based probation practices, and enhance public safety was held pending further JRI deliberations. Any recommendations will be reviewed by all district judges, the Felony Sentencing Committee, and the Administrative Conference before submission.

4. The recommendation to seek any statutory amendments or enactments to accomplish the transfer of the Judges Retirement Fund (I.C. §1-2001 et. Seq.) to PERSI for administration in accordance with the legislative intent of the 2012 amendments to Title 1, Chapter 20 of the Idaho Code pending. This was discussed later in the meeting; see agenda item C.6.
5. The recommendation for the Court to articulate its continued support of the ILAS efforts to find suitable means of stable financing was approved, and the letter of support provided to ILAS was included in the materials.
6. Other legislative recommendations to amend I.C. §19-2604 relating to the amendment of judgments, and to amend I.C. §32-717D relating to the award of attorney fees (relating to parenting coordinators) were approved by the Court.
7. Michael Henderson continues to research possible amendment to I.C. §19-5801 et. seq. to provide confidentiality of address and telephone numbers of judges.
8. Two “Defects in the Law” were approved by the Court for submission, and the letter to Governor Otter was included in the materials. For more information, see agenda item C.3.

C. Legislative and Budget Matters

1. FY14 Budget Status

Roland Gammill briefly reviewed the status of state General and Dedicated Fund budgets and revenues. Projected losses are expected to impact the state budget for FY15. The Administrative Conference also reviewed the Court’s legislative and budget priorities:

- **Recruitment:** A publication has been drafted entitled *Report to the 2014 Idaho Legislature – Why Increasing Judicial Salaries is Necessary Now: District Judge Recruitment Challenges Persist*. The Administrative Conference will have an opportunity to review this report. Legislative Leadership has designated Senator Bart Davis and Representative Mike Moyle to develop joint recommendations addressing the serious recruitment challenge and also the four-year constitutional officer pay raise. A meeting is scheduled with Senator Davis, Senator Lodge, Representative Moyle, and Representative Wills on February 4th to discuss the Court’s proposal.
- **Technology:** Representative Rich Wills will sponsor the bill which is expected to be printed in the House within the next week. The Court is requesting one-time bridge funding and significant ongoing funding. Legislators are recognizing fee fatigue on criminal fines and fees. The proposed legislation will focus on increasing civil fees only. Documentation of other western states’ civil fees has been drafted. Idaho’s civil fees are still relatively low, even with increases to the technology fee.
- **Guardianship & Conservatorship:** A \$125,000 increase in ongoing spending authority is sought from the fund to build on the success of the asset monitoring and to establish an on-site program in selected judicial districts to track the wellbeing of the most vulnerable individuals through on-site visits. Volunteer opportunities will also be established in communities across the state to assist in these important efforts.
- **Drug Courts, Mental Health Courts, and Family Court Services:** The Court seeks \$371,100 in ongoing spending authority in the Drug Court, Mental Health Court and Family Court Services Fund (I.C. §1-1625) to meet the ever increasing and unmet needs to promote timely resolution and improve outcomes for court cases involving children and families in all counties across the state; provide risk screenings and other direct services such as mediation, supervised visitation and parent education for difficult family law cases; and expand and

improve the delivery of court assistance services to the increasing numbers of citizens who are involved in a court case but who do not have a lawyer to help them.

- **Guardian ad Litem Funding for Abused and Neglected Children:** The Court requests the existing appropriation for Guardian ad Litem (GAL) funding be increased by \$262,500. I.C. §16-1614 provides that in any proceeding under the Child Protective Act (CPA), the court shall appoint a GAL for any child under the age of twelve years and may appoint a GAL for children twelve years or older. GALs conduct independent factual investigations and advocate for the best interests of the child at each stage of the court proceedings. This request will provide funding to the seven judicial district's programs for the recruitment and training of additional GAL volunteers.
- **Transfer of IDHW Treatment Funds for Misdemeanor Offenders:** The Court seeks Legislative approval to accept a transfer of \$704,000 from IDHW General Fund Substance Abuse Treatment appropriations to the Supreme Court's General Fund Substance Abuse Treatment account for the treatment of misdemeanor offenders in problem-solving courts, including domestic violence courts, together with the requisite increase in one-time spending authority. IDHW requested the Court seek this transfer.

2. Other Legislation of Interest to the Courts

A current status report was distributed at the Conference, and other legislation of interest to the Courts was discussed, including:

- **I.C. §19-2604:** A bill is being drafted that incorporates amendments in limited areas. There is some interest among legislators for broader amendments, including provisions relating to expungements. Information regarding Utah's more comprehensive approach has been provided. Additional amendments may be considered following the completion of the work of the JRI.
- **Guardianship/Conservatorship amendments:** Judge Dennard made a presentation at the House Judiciary, Rules and Administration Committee meeting regarding the guardianship/conservatorship amendments, as well as the parenting coordinator amendments.
- **Parenting Coordinator** amendment / attorney fees: See item above.
- **JRI Interim Committee** issued a report entitled *Justice Reinvestment In Idaho: Analyses & Policy Framework*, which was included in the meeting materials. At the invitation of Idaho legislators during the last session, the Council of State Governments (CSG) was asked to work with this interim committee, which resulted in CSG's report. The CSG policy recommendations are strongly supported by the chairs of the germane committees and the Governor's Office.

Although this legislation is on a fast track, Judge Wood and Patti Tobias have begun to analyze how the policy framework will translate into legislation and funding issues. Steve Bywater is assisting the Court with this issue, diligently drafting proposals on those policies of greatest interest to the courts, as well as working with the Felony Sentencing Committee for their input and review. A meeting is scheduled with the co-chairs to address proposed changes to the draft legislation. It is anticipated that a bill will be printed by the end of the week. Members of the Conference were asked to articulate any additional concerns beyond the comments provided via e-mail. Responses included the following:

- Concern was expressed that the legislation is moving too fast. Too much consideration is being given to voices outside of Idaho (i.e. east coast states). It is clear that potential cost savings in reducing recidivism is driving this legislation.

- Concern was expressed regarding the reliability of some of the data in the report, and therefore some of the conclusions.
- It is disconcerting to learn that on average some defendants in Idaho are serving double their fixed sentence, and twice as long as those sentenced in sister states. Some expressed they were disheartened by the report, and believe it is important information for Idaho. Idaho is currently on an unsustainable path and change has to come. Whether the change is good is another question.
- An Idaho judge reached out to judges in other states regarding their experiences with the JRI. Some concern was expressed that the JRI may not be as successful as it has been portrayed.
- Appreciation was expressed for the skillful way in which the Judiciary's ability to promulgate rules has been included in the amendments. This is an area that is still very fluid. It has been a struggle to determine whether there should be IDAPA rules or IDOC rules. Discussions continue in this regard.
- There is agreement that more community-based treatment is needed. Idaho must identify better ways to provide supervision, so there is less prison time. What does evidence-based practice mean to IDOC and what do they intend to do to fix the problem? Probation officers need more and effective training.
- There is agreement that the Court must work to ensure maximum judicial discretion is preserved.

The Conference took a brief break to excuse Chief Justice Burdick and Patti Tobias so they may meet with the guest lecturer, U.S. Court of Appeals Senior Judge J. Clifford Wallace, for the first Denton Darrington Annual Lecture on the Law and Government. The Conference reconvened with Justice Eismann presiding. Judge Wood continued to update the Conference on the following items:

- Public Defender Interim Committee: The seven Administrative District Judges appeared before the Public Defender Interim Committee last October and were well received. Proposed legislation is expected to go to print any day, with the framework for a commission, and funding for training, as well as hiring an executive officer. Legislative approval will be sought to continue the interim committee for another year.
- Behavioral Health Legislation: Judge Wood reported that the legislation which was rewritten over the summer was up for a hearing in the Senate, but was retained in committee.
- Bail bonds: No legislation has been brought forward by bail bond groups this year. Judge Box is working on forms for the statewide guidelines, which will complete the work of the committee.
- Medicaid redesign: Legislation regarding Medicaid redesign is scheduled to be heard in the House Health and Welfare Committee.
- Garnishments: This legislation seeks to enable attorneys to prepare service of garnishments as opposed to sheriffs. There does not appear to be a significant change from last year's proposed legislation. It is anticipated there will be opposition from the Sheriff's Association. It was noted that the legislative review teams lodged concerns about the newly drafted bill that is going to a print hearing today.
- Expungements: See previous discussion regarding I.C. §19-2604.

- JCA amendments: It was reported that Judge Varin has been retained by a private foundation, working with Roy Eiguren regarding national policy changes to juvenile corrections. To date, no legislation has been forthcoming.
 - Idaho Legal Aid Services: Jim Cook, the new director of Idaho Legal Aid Services, has developed proposed legislation in coordination with the courts. It has not yet been printed.
 - Interlock devices: The Idaho Transportation Department is working on a bill to bring Idaho's DUI provisions regarding repeat offenders in line with federal requirements enacted in 2012.
 - Millennium Funds: A presentation was made this morning to JFAC.
 - Permanent Building Fund: A recommendation was made for final funding to complete the Capitol Annex renovations to bring the building up to code. This building will eventually be used by the University of Idaho College of Law for a second year program in Boise, as well as housing the Law Library, and space for a Law Learning Center.
3. Defects in the Law
This year's "Defects in the Law" letter, included in the conference materials, brought forth two items of legislation:
- SB1214 – Criminal Procedures – Amends I.C. § 19-3915, addressing procedure in the magistrate division, to delete provisions stating that the court "can give no charge to the jury."
 - SB1215 – Children & Families – Amends I.C. § 16-1622 to correct code references that were erroneous in the CPA amendments adopted in 2013.

Both bills passed in the Senate and are on the way to the House.

4. State of the State / State of the Judiciary
The Governor delivered the combined State of the State and Budget on January 6. Some of the anticipated challenges for the budget include the cost of providing Wi-Fi in the public schools (estimated \$14 million), an investment transfer made by the Treasurer's Office (potentially \$27 million), increasing funds in the rainy day accounts, and the water call.

The Chief Justice's address was presented on January 21 and the text of the speech was included in the materials.

5. House Judiciary, Rules and Administration Committee presentation
Administrative District Judges made a presentation to the House Judiciary, Rules and Administration Committee on January 23, 2014, covering such topics as:
- Justice Reinvestment Initiative, presented by Judge Lansing Haynes (1st District)
 - Public Defense Reform, presented by Judge John Stegner (2nd District)
 - District Judge recruitment issues, presented by Judge Thomas Ryan (3rd District)
 - Problem-Solving Courts / Veterans Courts, presented by Judge Timothy Hansen (4th District)
 - Problem-Solving Courts /Mental Health Courts, presented by Judge Richard Bevan (5th District)
 - Advancing Justice: Judge Stephen Dunn (6th District)
 - Justice Reinvestment Initiative / replication of the "Wood Court" presented by Judge Jon Shindurling (7th District)

The presentation was very well received.

6. Status of Retirement Issues

- Transfer of JRF to PERSI pursuant to HB 660: Andrea Patterson reported that a determination letter from the IRS has been received, and that she and Roland Gammill are working closely with PERSI to effectuate the transfer, effective July 1, 2014.

Action Item

- Andrea Patterson and Roland Gammill will work closely with PERSI to complete the transfer of the JRF.
- PERSI decisions regarding eligibility to retire: Andrea Patterson and Michael Henderson were asked to update the Conference on recent developments in this regard.

Andrea Patterson referred the Conference to the Court's letter to PERSI, responding to the executive director's request for the impact on judges with prior PERSI service and how the Court would like this to be handled. Because the Attorney General has asked that PERSI and the Court work together to resolve this issue, the Court's letter provided various scenarios and asked PERSI to review two potential approaches to the situation. The first approach is a retroactive lump sum benefit and the second approach is in-service distributions. There are some concerns that legislation may be required for the second approach to address public perceptions of drawing a benefit while sitting on the bench.

7. Maintaining effective relationships with legislators / Executive Branch

Judge Wood and Patti Tobias completed visits with key legislators in November and December, and all districts had been asked to distribute materials and priorities to all legislators in November and December.

- Legislative Review Teams
- Legislative contacts
- District opportunities to meet with legislators
- A team of advisors is working on behalf of the Idaho Courts
- The Idaho State Bar Commissioners have also designated a team.

The assistance that ADJ's, TCA's, and other judges have provided is invaluable. The Idaho State Bar has provided resolutions in support of judicial recruitment and court technology.

8. 2013 Yearly Court Reports

The reports were distributed to legislators on January 6, and posted on the Court's Web site. Copies for county commissioners were provided at this Conference for court administrators for distribution.

Action Items:

- Trial court administrators will distribute the 2013 yearly reports to county commissioners.

On Monday, February 3, 2014, the Administrative Conference adjourned at 3:25 pm MST in order to attend the first Denton Darrington Annual Lecture on Law and Government at the State Capitol.

On Tuesday, February 4, 2014, the Administrative Conference reconvened at 8:30 am MST by Chief Justice Burdick.

X. Achieving the Court's Strategic Goals and Objectives

1. Consider updating the Court's Strategic Goals and Objectives

The Court has undertaken significant work relating to protecting assets of vulnerable persons under conservatorships and is now developing strategies to strengthen the Court's role in guardianships.

Chief Justice Burdick noted that these initiatives have been updated, and welcomes additional ideas to strengthen them.

Action Item

- The proposed Strategic Goals and Objectives will be added to the April Administrative Conference for consideration.

2. Ensure Access to Justice / Enhance the ability to efficiently conduct court business by developing technologies, especially electronic filing of all court documents.

Chief Justice Burdick and Kevin Iwersen were invited to update the Conference on recent developments to fulfill the IT Strategic Plan, a more in-depth understanding of the technology projects outlined in the FY15 Budget and Legislative Priorities, and an update on the work of the Court Technology Committee and the Design and Implementation Team, specifically regarding the case management system replacement project.

Chief Justice Burdick stressed that it is hard to adequately explain how much detailed, hard work has been completed by the fit analysis group under the leadership of former Chief Justice Linda Copple Trout.

Kevin Iwersen provided the following Information Technology update:

- Training was held in November 2013 on the new case management system, followed by a detailed fit analysis of the new applications compared to the existing case management processes. This process is used to validate Idaho's requirements, business processes and assumptions, both from a business and technological perspective.
- The project timeline is on schedule, with a target "pilot" deployment to the Twin Falls County courts between March-June, 2015. Over the next 6 months, the Design and Implementation Team along with other applicable judicial stakeholders will participate in numerous project workshops, additional fit assessments, and training activities.
- Communications strategy is to connect with all stakeholders, inside and outside the organization to provide ongoing communication regarding the project status and activities.
- New Scanning and Imaging Guidelines have been implemented and distributed to elected clerks and county court personnel, to address issues with disparate scanning procedures with varying degrees of maturity, quality, and capability. The new guidelines are designed to provide direction to counties on many aspects of scanning efforts in order to provide county-level assurance of their processes and to provide greater uniformity of electronic court documents across Idaho's courts.

It was emphasized that taking ownership by all stakeholders will be vitally important during the transition.

Three funding strategies for the technology legislation were reviewed, including short-term, long-term, and bridge funding options. A question was posed regarding staffing for the project. The funding request includes proposed staff increases for the Court Information Division and Court Management Division, and contemplates competitive salaries to ensure the Court does not lose any additional critical staff in the middle of the project.

3. Provide Timely, Fair, and Impartial Case Resolution / Advance justice by resolving cases as early as possible, while guaranteeing the rights of the parties.

Administrative District Judge Stephen Dunn was invited to update the Conference on recent developments and upcoming plans and invite the ongoing thinking and recommendations of the

Conference to guide the efforts. The statewide case management plan and individual districtwide plans will be discussed, as will the plans for the April 15-16 Caseflow Management Conference.

Judge Dunn reported on the statewide committee plan to set best practice standards to efficiently move cases through the system in conjunction with the new computer system. He emphasized the importance of the April Caseflow Management Conference training which will be utilized to develop districtwide plans.

4. Review Revised Policy Handbook

At the October meeting, the Administrative Conference reviewed an updated Policy Handbook, and another revised manual was distributed for statewide comment in January, with the IT policies and senior judge policies remaining to be completed. Andrea Patterson reviewed the updated manual, which now includes a definitional section to delineate what section applies to which group of employees. The next question was whether judges should be included in the manual at all given that they are elected officials, or should a separate manual be created. If it is determined that a separate manual is more appropriate, certain sections would be included in that manual and it is recommended that the employment legal compliance section also be included due to the judge's supervisory or quasi-supervisory responsibilities. It was suggested that the interface with the Judicial Council also be included in the manual.

Questions were posed regarding county employees who may be subject to county employee policies and the Court's employee policies. MOU's are in place or available to address some of these issues.

It was suggested that Section 8.4.1 be moved to Section 3 related to compensation.

A question was posed regarding the provision relating to the Court placing a judge on administrative leave. Concern was expressed that there is a due process issue that should be considered and that because judges are subject to the actions of the Judicial Council, discipline should be left to the Council and not be undertaken by the Court. There was a question regarding the authority of the Court to place a judge on administrative leave with pay. The Court has the inherent authority to act in an immediate situation. The authority comes from the state constitution under Article V, Section 2. It was pointed out that the issue is much broader than situations relating to criminal charges or other conduct and that this provision would be applicable in other situations, such as when a judge is placed on administrative leave due to medical issues.

Following discussion, IT WAS MOVED BY JUDGE HANSEN AND SECONDED BY JUDGE STEGNER TO CREATE A SEPARATE JUDGES POLICY HANDBOOK, WHICH INCLUDES THE EMPLOYMENT LEGAL COMPLIANCE AND OTHER SECTIONS AS OUTLINED BY ANDREA PATTERSON. THE MOTION PASSED UNANIMOUSLY.

Following additional discussion, IT WAS MOVED BY DAN KESSLER AND SECONDED BY LINDA WRIGHT THAT INSTEAD OF "JUDICIAL OFFICER" OR "JUDICIAL EMPLOYEE" THE PHRASE BE CHANGED TO JUDGE/JUSTICE OR EMPLOYEE, AS APPLICABLE. THE MOTION PASSED UNANIMOUSLY.

5. Ensuring the Highest Level of Service by Recruiting Highly Qualified Court Personnel.

Andrea Patterson updated the Conference on the status of a global MOU for district court personnel and briefly reviewed each of the sections of the proposed MOU. She also provided an update on the status of districtwide manager positions for problem-solving courts and family court services.

Members of the Conference were invited to comment or provide suggestions for the global MOU. A question was posed regarding the intent of the language relating to the sheriff. It was intended to address situations where the Court hires and supervises court security personnel, but not the

sheriff. This language will be clarified. A question was posed regarding whether there would be an effort to align misdemeanor and juvenile probation. It was suggested this be accomplished through proposed legislation. Finally, it was pointed out that the language under the deputy court clerk section is in conflict with the recent *Hayes* decision.

Action Item

- The County and Courts Committee will continue its work on the MOU and keep the Conference apprised at subsequent Administrative Conferences.

6. Judicial Performance Evaluation Committee.

Chief Justice Burdick, chair of the Judicial Performance Evaluation Committee (JPEC), provided an update to the Conference, and a report by the National Center for State Courts which was presented to the Judicial Council and the JPEC on December 12, 2013, was included in the materials. The committee made a presentation about judicial performance evaluations at the District Judges Conference in January, and will also make the presentation at the Magistrate Judges Conference in May. The Administrative Conference will be kept apprised of developments.

7. CFCC Report and Recommendations Relating to the IRFLP Pilot Project.

The Conference was asked to consider recommendations to extend the pilot project statewide, effective July 1, 2014. The Executive Summary was included in the materials, and the full evaluation report is available online at: <http://www.isc.idaho.gov/irflp>.

Judge Comstock, chair, reviewed the Children and Families in the Courts Committee's (CFCC) report and recommendations to the Conference, including public and magistrate judge comments on the Idaho Rules of Family Law Procedures. Taunya Jones also reviewed a summary of the evaluation report prepared regarding these rules. Questions posed by members of the Conference included:

- Could districts simply choose to implement the IRFLP by local rule, as opposed to a statewide adoption? Some districts do not have a specialized bar. One district in particular indicated there is no buy-in from its local bar. While it is possible to implement through local use, this approach would be contrary to the goal to have everyone working from the same rules.
- Concern was expressed that there is very limited data that does not indicate one way or another whether the rules are effective and have a demonstrable impact on the outcome of a case.
- What is the rush? Why not pilot in additional counties, particularly some more rural counties? The committee discussed this possibility, but determined that rural counties do not see the volume of cases and therefore it is not likely that much additional data would be gathered.
- Concern was expressed that there is not much of a position expressed by self-represented litigants (SLR's). This was difficult to evaluate in terms of asking meaningful questions and receiving meaningful responses from the litigants. The evaluation relies heavily on judge, attorney, and CAO perceptions of how the rules helped SLR's.
- A question was posed regarding the relaxation of the rules of evidence. Parties always have the option of opting for the standard rules of evidence.

- A suggestion was made to delay the vote until the April Conference, or following a presentation and vote by the magistrate judges at their conference in May. No action was taken on this suggestion.

Following discussion, IT WAS MOVED BY JUDGE BOLLAR AND SECONDED BY JUDGE OTHS TO RECOMMEND TO THE SUPREME COURT THE STATEWIDE ADOPTION OF THE CHILDREN AND FAMILIES IN THE COURTS COMMITTEE REPORT AND RECOMMENDATIONS, EFFECTIVE JULY 1, 2014. THE MOTION PASSED (VOTE COUNT: 11 YES; 8 NO).

Action Items

- At the April Administrative Conference, a final review of the Employee Policy Manual and a Judges Policy Manual will be undertaken.
- The recommendation to adopt the Children and Families in the Courts Committee report and recommendations will be forwarded to the Court for its consideration.

E. Other Business

1. Court Facility Assessments: Larry Reiner, Judge Gaskill, and Suzanne Johnson were invited to provide an update on the site visits. A site visit for all three counties has been completed. A grant status report has been submitted to SJI. Due to the illness of the primary consultant, delays have been encountered in receiving a written report. It was noted that the NCSC's *Courthouse Violence Report* is available online at: <http://ncsc.contentdm.oclc.org/cdm/ref/collection/facilities/id/182>.
2. Uniform Business Practices: A number of uniform business practices have been published recently and are operational, including:
 - HB 147, 148, 149 – Appointment of Counsel
 - HB 256 – Child Protection
 - HB 648 – Assessments
 - HB 274 – Traffic Safety Education Programs
 - SB 1067 – DNA
 - SB 1119 – Income Withholding
 - SB 1122 – Active Duty
 - SB 1151 – Discretion to reduce felonies to misdemeanors
3. Clerks/Judges Conference: The Conference was asked for its feedback on yesterday's conference and strategies for future years to promote productive relationships with clerks of the district court.
4. ICAR 59: A reminder was included for court clerks regarding the vexatious litigation rule.
5. Hayes v. Haynes: A brief overview was provided on the memorandum opinion and order granting summary judgment which was included in the materials. *[Note: Chief Justice Burdick excused himself from the conference while this agenda item was discussed.]*

Action Item

- An update on Hayes v. Haynes will be included in the April Administrative Conference agenda.
6. District Magistrate Commissions: In response to the Trial Court Administrators earlier request for clarification on the date of a magistrate judge's appointment, it was recommended that an amendment to Form 9 of the Magistrate Commission Manual be made to provide that the effective date of the appointment of the magistrate judge is the date the person selected takes office.

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE SHINDURLING THAT FORM 9 OF THE MAGISTRATE COMMISSION MANUAL BE REVISED TO PROVIDE THAT THE EFFECTIVE DATE OF THE APPOINTMENT OF A MAGISTRATE JUDGE IS THE DATE THE PERSON SELECTED TAKES OFFICE. THE MOTION PASSED UNANIMOUSLY.

Action Item

- Form 9 of the Magistrate Commission Manual will be revised to provide that the effective date of the appointment of a magistrate judge is the date the person selected takes office.

7. Proposed Rule Changes

Cathy Derden reviewed the proposed amendments to the Idaho Rules of Civil Procedure, including Rule 11(b)(3), Rule 26(b)(4)(A), Rule 33(a), Rule 40(e), Rule 54(a), Rule 57, Rule 59(c), Rule 77(d), Rule 16(a), and Rule 56(a). All amendments are to be effective July 1, 2014.

- Rule 26(b)(4)(A) Trial Preparation – Experts: Amendments create two categories of expert witnesses: (1) those retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony; and (2) individuals with knowledge of relevant facts not acquired in preparation for trial and who have not been retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party do not regularly involve giving expert testimony. The amendments are based on a federal rule, and are currently being circulated for comment.
- Rule 40(e) - Change of Venue: The proposed amendment clarifies that venue can only be changed on motion of a party and not *sua sponte*. The Conference proposed that the language in this amendment be revised to provide that the judge may change venue on his/her own motion, but after notice to the parties and a hearing.
- Rule 54(a) – Judgments – Definition – Form: Amendment adds: “A judgment shall begin with the words ‘JUDGMENT IS ENTERED AS FOLLOWS: . . .,’ and it shall not contain any other wording between those words and the caption. A judgment can include any findings of fact or conclusions of law expressly required by statute, rule, or regulation.” The Conference proposed the amendment be revised slightly as it relates to the language “expressly required by statute, rule or regulation” as they believed this might cause confusion
- Rule 16(a) – Scheduling Conferences and Scheduling Orders / and Rule 16(b) – Final pre-trial procedure: Both rules are brought by the Advancing Justice Committee. The current rules are reorganized and multiple sections are combined to eliminate duplication. Scheduling conferences to be held within 30 days after an answer or notice of appearance is filed, and a final pre-trial conference is to be held at least 30 days before trial.
- Rule 56(a) – Summary Judgment – For Claimant: Amendments to this rule were also suggested by the Advancing Justice Committee, but after discussion, it was determined that this should be sent back to the Advancing Justice Committee for further revisions.

IT WAS MOVED BY JUDGE GASKILL AND SECONDED BY JUDGE MERICA THAT AMENDMENTS TO THE CIVIL RULES WITH THE FURTHER AMENDMENTS PROPOSED BY THE CONFERENCE BE FORWARDED TO THE COURT FOR ITS CONSIDERATION. THE MOTION PASSED UNANIMOUSLY.

- Rule 56(a) – Summary Judgment – For Claimant: Judge Dunn and Cathy Derden provided some clarification regarding the proposed amendment.

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE GASKILL THAT THE PROPOSED REVISIONS TO RULE 56(a) BE ACCEPTED BY THE ADMINISTRATIVE CONFERENCE. THE MOTION CARRIED.

Action Item

- The recommendation to amend the Idaho Rules of Civil Procedure as outlined will be forwarded to the Court for its consideration.

Michael Henderson then outlined proposed rules changes as follows:

- ICAR 32 dealing with records of the Judicial Branch: Three amendments were suggested by the ICAR 32 Committee:
 - (1) The current definition of “court rule” makes reference only to records relating to judicial proceedings. However, the rule embraces and makes reference to several other types of court records, such as records of the AOC, the Judicial Council, the Idaho State Bar, the Idaho Bar Commission, and the District Magistrates Commissions. The provision being added to the definition of “court record” would cover these other records that are governed by ICAR 32.
 - (2) Case information sheets are generally used only for court management purposes and are exempt from disclosure, even to the parties. However, guardians ad litem and court visitors have a need to access the information in the case information sheets. The added subsection (c)(6) would provide access by GALs and court visitors to this information, unless restricted by the court.
 - (3) The reference to a particular subsection of I.C. § 9-338 in subsection (j)(1) would be dropped. I.C. § 9-338 is frequently amended and the designation of subsections is changed accordingly. The reference to the subsection is not necessary since the particular subsection being referenced is clear from the context.

IT WAS MOVED BY JUDGE BEVAN AND SECONDED BY JUDGE BOLLAR TO FORWARD TO THE COURT THE SUGGESTED AMENDMENTS FROM THE ICAR 32 COMMITTEE AS DISCUSSED, WITH THE EXCEPTION OF THE AMENDMENT TO SECTION C. THE MOTION PASSED UNANIMOUSLY.

Following discussion, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE GASKILL TO FORWARD TO THE COURT THE SUGGESTED AMENDMENT FROM THE ICAR 32 COMMITTEE WITH THE AMENDMENT TO SECTION C (RELATING TO THE IDAHO STATE BAR COMMISSION) AS DISCUSSED. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to amend Idaho Court Administrative Rule 32 will be forwarded to the Court for its consideration.
- ICR 46 amendment: Recommended by the Bail Bonds Guidelines Committee; addresses an inconsistency between the bail statutes and ICR 46.

IT WAS MOVED BY JUDGE HANSEN AND SECONDED BY JUDGE GASKILL TO FORWARD TO THE COURT THE SUGGESTED AMENDMENT OF ICR 46. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to amend Idaho Criminal Rule 46 relating to bail bonds will be forwarded to the Court for its consideration.

- ICAR 54.2 and 54.3: Deputy Legal Counsel Deena Layne presented the proposed changes to Idaho Court Administrative Rules 54.2 regarding guardian reports and Idaho Court Administrative Rule 54.3 relating to conservator reports, noting that the primary purpose of these changes is to move the reporting requirements out of Idaho Code and into Court rule, where they can be simplified and adjusted as necessary to improve the monitoring of guardianships and conservatorships. Deena reported that Senior Judge Dennard presented the committee's bill yesterday to the legislature. The rules have been posted for public comment on the Court's website and with the State Bar. To date, no comments have been received.

IT WAS MOVED BY JUDGE BOLLAR AND SECONDED BY JUDGE BUTLER TO APPROVE IDAHO COURT ADMINISTRATIVE RULES 54.2 AND 54.3, AND TO FORWARD THEM TO THE COURT FOR ITS CONSIDERATION. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to amend Idaho Court Administrative Rules 54.2 and 54.3 will be forwarded to the Court for its consideration.
8. Proposed Change to Supreme Court Assignment Orders: The 6th and 7th judicial districts recommend modifying the assignment orders to maximize the flexibility of assigned judges to hear cases without being disqualified.

Following discussion of the term "assignment" as used in the statute versus how it is used in Supreme Court orders of assignment, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE SHINDURLING TO INCORPORATE THE AMENDED LANGUAGE IN SUPREME COURT ASSIGNMENT ORDERS AND TO FURTHER RESEARCH THE TERM OF "ASSIGNMENT" IN THIS CONTEXT. THE MOTION PASSED UNANIMOUSLY.

Action Item

- Supreme Court assignment orders will be amended to incorporate the language suggested by the 6th and 7th Districts.
9. Judicial Elections: Information was included in the materials for information only regarding:
- Protocol for Communications Regarding Unwarranted or Unfair Attacks on the Judicial System
 - Obtaining election information on the Secretary of State's webpage
10. Victim Notification by Prosecuting Attorney: Burt Butler and Linda Wright requested that the Conference review the applicable constitutional and statutory provisions and discuss best practices related to victim's notification. Following discussion, it was determined that the language is adequately clear for the process and prosecuting attorneys. Given the lateness of the hour, it was suggested that any specific recommendations be included for consideration at the April Conference.

Action Item

- Burt Butler and Linda Wright will submit proposed statutory amendments relating to victim notification by the prosecuting attorney for consideration by the April Administrative Conference.
11. Recap of the Judiciary's morning meetings with Legislators
Patti reported that she and Senior Judge Wood meet this morning with Senator Davis and Representative Moyle, who have agreed to study recommendations from the Court and germane committees regarding recruitment challenges and subsequent salary proposals. The Court was asked to prepare some additional approaches to accomplishing the salary increases. Much of the discussion centered around other matters

relating to the judicial selection process, as well as matters outside of the Judiciary (i.e. the water call, shortfalls in other agencies, etc.) which may impact JFAC's funding decisions this year. No conclusions were reached, although the chairs of the germane committees have indicated they are supportive of this issue. Judge Wood added that there were discussions comparing salaries to other states (including all elected officials in Idaho, not just judges). Until the water call in the Magic Valley is resolved, all discussion regarding salary increases are off the table.

F. Discuss Proposed plans and agenda for April 2014 Administrative Conference

Tuesday-Wednesday, April 15-16	District Caseflow Management Conference
Thursday, April 17 (morning)	Administrative District Judges Meeting
Thursday, April 17 (morning)	Trial Court Administrators Meeting
Thursday, April 17 (afternoon)	Administrative Conference
Friday, April 18 (morning)	Administrative Conference
	<ul style="list-style-type: none"> • Discuss 2007 proposed court security and bailiff legislation (before Courts/Counties Meeting on May 9) • Magistrate Judge Retention Elections and Voter Information (Janica & TCAs) • State Crime Lab (Judge Oths)

G. Discuss plans for Upcoming Dates of Importance to the Administrative Conference

July 2014 / Pocatello (Shoshone-Bannock Hotel in Fort Hall)

Tuesday, July 15 (morning)	Administrative District Judges Meeting
Tuesday, July 15 (morning)	Trial Court Administrators Meeting
Tuesday, July 15 (afternoon)	Administrative Conference
Wednesday, July 16 (morning)	Administrative Conference
Wednesday, July 16 (afternoon)	Start of ISB's Annual Meeting (runs through Friday, July 18) <i>[invite local judges to participate too]</i>
October 2014 / Boise	
Thursday, October 16 (afternoon)	Administrative Conference
Friday, October 17 (morning)	Administrative Conference

Judge Jon Shindurling commented that on the occasion of this being his last Administrative Conference after serving as the Administrative District Judge for the Seventh Judicial District for five years, that his participation with this body has been a highlight of his career and expressed his appreciation for the opportunity. He also commended Judge Darren Simpson, who will officially begin serving as the Administrative District Judge for the Seventh Judicial District on April 1, 2014.

Patti Tobias thanked Judge Shindurling for his extraordinary service as Administrative District Judge and working with the Administrative Conference, as well as his contributions on other court committees.

HAVING BEEN MOVED BY JUDGE DUNN AND SECONDED BY JUDGE STEGNER TO ADJOURN,
the Administrative Conference concluded at 12:46 pm MST.