

MINUTES

ADMINISTRATIVE CONFERENCE

Thursday and Friday, April 18-19, 2013 // Boise, Idaho

The Administrative Conference was called to order on Thursday, April 18, 2013, at 1:10 pm MDT 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, and Hon. Jon Shindurling. 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. Juneal Kerrick, President – District Judges Association; Hon. Rick Bollar, President – Magistrate Judges Association; Hon. Michael Oths – Vice President, Magistrate Judges Association; Hon. Ryan Boyer, Past-President – Magistrate Judges Association; Roland Gammill; Janica Bisharat; Andrea Patterson; Kevin Iwersen; Kerry Hong; Taunya Jones; Michael Henderson, Senior Judge Barry Wood, and Patti Tobias.

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 February 4-5, 2013 Administrative Conference

IT WAS MOVED BY JUDGE BOLLAR AND SECONDED BY JUDGE HANSEN TO APPROVE THE MINUTES OF THE FEBRUARY 6-7, 2013, ADMINISTRATIVE CONFERENCE. THE MOTION PASSED UNANIMOUSLY.

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

1. The senior judge orientation checklist was adopted and included in the conference materials.
2. The recommendations of the Administrative Conference to adopt rule amendments to the Civil, Criminal, Child Protection, and Children and Family rules were forwarded to the Court for its consideration. The Court approved the rule amendments, as follows:
 - Civil Rules Committee recommendations
 - New Rule 7(d): permit a written affidavit under oath (pending adoption of HB30)
 - New Rule 7(b)(5): video teleconferencing for mental commitment hearings
 - New Rule 28(3): implementation of the Uniform Unsworn Foreign Declarations Act
 - Amend Rule 11: signing of pleadings, motions, and other papers; sanctions (with clarification of the Administrative District Judges)
 - Amend Rule 69: execution
 - Felony Sentencing Committee recommendations: amend Criminal Rule 32
 - Child Protection Committee
 - Amend Rule 33: Summons (CPA)
 - Amend Rule 39: Shelter Care Hearing (CPA)
 - Amend Rule 41: Adjudicatory Hearing (CPA)
 - Amend Rule 44: Case Plan Hearing – Permanency Plan Hearing
 - Amend Rule 45: Review Hearings (CPA)
 - Amend Rule 46: Annual Permanency Hearings
 - Amend Rule 51: Application of Idaho rules of Evidence (CPA)(JCA)
 - Children and Family Committee proposed rules: Parenting Time Evaluation

3. The recommendation to adopt the broad policy objectives of the Hay Study as outlined at the February 2013 Administrative Conference was approved by the Court. Phase I of the recommendations has been implemented.
4. The Court approved the proposed composition for a Jury Committee and a Language Access Committee.

C. Legislative and Budget Matters

1. FY13, FY14, and FY15 Budgets

Roland Gammill reported on the status of FY13 revenues and expenditures. The Division of Financial Management reported that the latest general fund revenues are up 4.4 percent above projections for the month of April. The tax intercept program has collected just over \$2.0 million statewide. So far this year, annual accounting reviews have been conducted in over 1,600 conservatorship cases totaling \$229 million. The Emergency Surcharge revenues are a little lower than projected. The Conference reviewed high-level financial reports included in the meeting materials.

Andrea Patterson reported that although the legislature did not provide an allocation for state employee compensation, the Judiciary's appropriations bill, along with all other appropriations bills, included language to encourage consideration of employee compensation. The Division of Financial Management and Division of Human Resources also provided guidance in this respect. The Administrative Conference was asked to consider a preliminary recommendation to provide short-term commendable (STC) awards that are the same across the board for all employees, regardless of salary level or years of service so as to not exclude law clerks or recently hired employees or to provide a lesser amount to salaries with a lower level of compensation. The STC award will be contingent on the supervisor certifying the satisfactory performance of the employee. Andrea and Roland will continue to monitor what executive branch agencies are providing in terms of STC's to their employees to ensure the Court is not an outlier in its approach.

IT WAS MOVED BY JUDGE RYAN AND SECONDED BY JUDGE GASKILL TO RECOMMEND A SHORT TERM COMMENDABLE IN THE SAME AMOUNT ACROSS THE BOARD FOR NONJUDICIAL EMPLOYEES, CONTINGENT UPON THE RANGE OF CIRCUMSTANCES OUTLINED. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to approve a short-term commendable in the same amount across the board for non-judicial employees will be forwarded to the Court for its consideration.
- a. **FY14 Budgets (General and Dedicated Funds, Millennium Fund, Permanent Building Fund)**
Roland Gammill reviewed the summary of budget items that were included in the FY14 budget, including maintenance items (benefit cost increases and statewide cost allocation reduction), as well as all the enhancements approved by JFAC, including three new district judges and court reporters with an October 1 start date, and two new magistrate judges with an October 1 start date.

It was moved by DAN KESSLER AND APPROVED BY KARLENE BEHRINGER THAT THE FY14 BUDGET AS REVIEWED BE CIRCULATED TO THE ADMINISTRATIVE CONFERENCE, WITH THE AUTHORITY AND FLEXIBILITY TO MAKE

ADJUSTMENTS AS NEEDED BEFORE SUBMITTING TO THE SUPREME COURT FOR ITS FINAL APPROVAL. THE MOTION PASSED UNANIMOUSLY.

Action Item

- Once individual committee allocation requests are received, the final proposed FY14 budget will be circulated to the Administrative Conference for final review before being forwarded to the Supreme Court for its approval.

Janica Bisharat presented proposed FY14 senior judge and active judge allocations for consideration by the Conference. A number of factors were considered in formulating the allocations, including the FY14 senior judge budget, district requests, FY13 utilization, filings per judge projections (including the new judgeships in the 3rd, 4th, and 7th Districts), TCA evaluations, availability information provided by the senior judges, and continuing education requirements for senior judges. Janica noted that as part of the strategies to strengthen the role of the Administrative District Judge (ADJ), an additional 26 senior judge days were included in each district's allocation for the Administrative District Judge to use during the year.

District requests for active judge days were identical to those received last year. The feedback received regarding active judge day usage continues to be mixed in certain districts. The Conference reviewed FY14 proposed active judge day allocations. All assignments must be agreed to in writing by the respective administrative district judges prior to issuance of Supreme Court assignment orders. In the agreements, the districts should outline how they plan to measure outcomes so that in the future the effectiveness of the judges' time and travel and case assignments may be better evaluated.

IT WAS MOVED BY JUDGE RYAN AND SECONDED BY JUDGE BEVAN TO APPROVE THE FY14 PROPOSED SENIOR AND ACTIVE JUDGE ALLOCATIONS AS OUTLINED IN THE CONFERENCE MATERIALS. THE MOTION PASSED WITH 2 NAYS (Judges Stegner and Gaskill).

Action Item

- The FY14 proposed Senior Judge and Active Judge Allocations will be forwarded to the Court for its consideration. Once approved, final allocation charts will be distributed to the trial court administrators.

Andrea Patterson presented recommendations relating to district court personnel classification and compensation. She reminded the Conference that in February the Court adopted recommendations related to the classification and compensation of Judicial Branch employees. Since then, meetings have been held with the statewide court services managers to develop additional recommendations for district court personnel.

The initial recommendation is for each of the seven districts to be able to request two district-wide coordinators that are state or county employees, one for problem-solving courts and one for coordinated family court services. These are not new positions. This recommendation provides an option for an existing coordinator to become a state employee, if approved. This option may not be desirable for all districts or all coordinators due to individual, existing circumstances. The goal is to institutionalize the important work being done in the districts and towards a state employment model where appropriate.

Once approved by the Administrative Conference, this recommendation will be brought before the respective coordinating committees, along with position descriptions, for review. The Supreme Court will then review the recommendation at Oral Conference. If approved by the Court, districts will be able to submit their requests to Human Resources for one or both positions for approval. There are additional dollars to incentivize the transition of the coordinators to state or county employment

Following discussion, IT WAS MOVED BY JUDGE GASKILL AND SECONDED BY JUDGE RYAN TO APPROVE THE DISTRICT COURT PERSONNEL CLASSIFICATION AND COMPENSATION PLAN AS SUBMITTED, TO ADOPT THE POLICY FOR A NEW STATE AND COUNTY STRUCTURE AS SOON AS POSSIBLE, AND TO DEVELOP AND BRING BACK TO THE ADMINISTRATIVE CONFERENCE A STRATEGIC LONG-RANGE VISION FOR ALL DISTRICT COURT PERSONNEL. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to approve the district court personnel classification and compensation plan will be sent to the respective coordinating committees for review.

b. FY15 Budget preparation plans and timelines

Roland Gammill reviewed the FY15 budget preparation plans and timelines, noting that once divisional areas and committees have approved any internal adjustments to allocations for FY14, the Finance Office will distribute the FY15 annual budget request letters and templates to Administrative District Judges, Trial Court Administrators, and Division Directors. All FY15 budget requests are due by June 21, so the Finance Office will be able to prepare preliminary recommendations for the July Administrative Conference.

Action Items

- The Finance Office will distribute the FY15 annual budget request letters and templates to Administrative District Judges, Trial Court Administrators, and Division Directors.
- Preliminary recommendations for the FY15 budget will be included on the July Administrative Conference agenda.

c. The 2012 COSCA Budget Survey was included in the conference materials information only.

2. Review 2013 Legislative Session / Budget and Legislative Priorities

The Conference took a few moments to recognize Senior Judge Wood and his extraordinary efforts on behalf of the Judiciary during the legislative session.

- a. The 2013 Budget and Legislative Priorities were included for review, along with other court legislation of interest. Senior Judge Wood reviewed the results of legislation and implementation strategies.
- b. Copies of the relevant bills were included in the Legislative Summary (C.3.b.).

3. Other Legislation of interest to the Courts / discuss where follow-up action is necessary

- a. The legislative "tracking report" was included for review.

- b. A copy of the Legislative Summary was distributed to members of the Conference. Judge Barry Wood, Patti Tobias, and Michael Henderson reviewed legislation of interest to the Judiciary.
- c. SCR128: CSG Justice Reinvestment regarding criminal justice interim committee. Senate Concurrent Resolution (SCR) 128 authorizes the Legislative Council to appoint a committee to undertake and complete a study of the Idaho criminal justice system. As part of the Justice Reinvestment Technical Assistance Idaho will receive, the Council of State Government's Justice Center will complete the study and will develop solutions and evidence-based practices to improve Idaho's criminal justice system. Senior Judge Wood updated the Conference on the work of this group, noting upcoming meetings. Patti Tobias added that by the July Administrative Conference there should be a better understanding of the policy issues to be discussed. The Criminal Justice Commission and the interim committee will both be engaged in this process, and the Administrative Conference will be kept apprised of the status.
- d. HCR26: Public Defender Interim Committee. Patti Tobias reported that Michael Henderson and Judges Box, Varin, and Stegner continue to be closely involved in the work of this committee, and will keep the Administrative Conference advised as the work progresses.
- e. A list of legislative implementation issues was distributed to members of the Conference for discussion.

Judge Wood reported that throughout the session he and Patti Tobias had accumulated a list of matters that legislators have asked to be reviewed over the summer. The Conference briefly reviewed the list, including:

- Should jurisdiction of magistrate judges be increased from \$10,000 to a greater amount?
- Interest in diversion programs and outpatient commitment.
- Why should fines/fees for disturbing the peace crimes go to DV funds?
- Any legislative changes next year for GAL program funding?
- Review Arizona lengthy trial fund.
- Can Idaho Rural Partnership help with court facilities?
- Consider whether ILAS could provide representation in termination cases.
- Interest in expanding I.C. §19-2604.
- Governor's letter of March 15 relating to the Emergency Surcharge.
- Should filing fees for complex litigation be increased?

Patti Tobias informed the Conference that the Office of Performance Evaluations (OPE) will be studying two areas this summer. The Legislative Council voted to study the death penalty system in Idaho. There are no specific details about the study at this time. The Joint Legislative Oversight Committee also directed the OPE to study the number of juveniles detained in Idaho. A recent national report shows Idaho has an increasing number of juveniles in detention, and is among the highest rates in the nation. The Administrative Conference will be kept apprised of these activities.

4. FY15 Preliminary Budget and Legislative Priorities
Patti Tobias and Senior Judge Wood highlighted a very preliminary list of budget and legislative priorities for the next session, and asked that other suggestions be submitted to them as early as possible for further review at the July and October Administrative Conference.
 - a. Recruitment of highly qualified judiciary.
 - b. Ensure access through improving technology.
 - c. More behavioral health treatment for offenders.
 - d. Examine the need for additional resources to Advancing Justice.
5. Providing Legislative Updates in each Judicial District
Patti Tobias, Senior Judge Wood, and Michael Henderson appreciate the opportunity to meet with judges in all judicial districts to review legislation of interest to the Judiciary and Court rule changes. The tentative schedule for district legislative updates was distributed. Topics to be discussed include:
 - a. Legislative reports
 - b. New Court rules effective July 1, 2013
6. Other Legislative “Road Trips”
Judge Wood and Patti Tobias are tentatively planning visits to key legislators in August and September. Administrative District Judges and Trial Court Administrators will be kept apprised of all schedules, and invited to join as available.
7. Review Protocol for Establishing and Maintaining Effective Relationships with Local Officials
At the February 2013 Administrative Conference, the Trial Court Administrators were asked to develop a proposed Protocol for Establishing and Maintaining Effective Relationships with Local Officials. The Administrative Conference was asked to review and discuss the draft proposal.

Following some discussion, it was suggested that the draft proposal be transmitted to the Counties/Courts Committee for its consideration. A revised protocol will be sent back to the Administrative Conference for final adoption.

Action Item

- The draft Protocol for Establishing and Maintaining Effective Relationships with Local Officials be circulated to the Counties/Courts Committee.

8. Review proposed new draft of the District Magistrates Commission Manual
The Conference was asked to adopt the revisions to the District Magistrates Commission Manual. Janica Bisharat reported that following discussion at the February Administrative Conference, all additional suggestions and revisions have been incorporated into the manual.

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY DAN KESSLER THAT THE ADMINISTRATIVE CONFERENCE ADOPT THE REVISED DISTRICT MAGISTRATES COMMISSION MANUAL, AS AMENDED ON PAGES 26 AND 59. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The final District Magistrates Commission Manual will be maintained in IKMS. An electronic copy will be e-mailed to Trial Court Administrators.

9. Magistrate Judge Retention Elections

At the February 2013 Administrative Conference, the Trial Court Administrators were asked to discuss magistrate judge retention elections and public inquiries for information to inform voters. Janica Bisharat reported the TCA's had reviewed a first draft earlier in the day during the TCA meeting. Recommendations will continue to be refined and will be submitted for consideration by the October Administrative Conference.

Action Item

- Recommendations relating to magistrate judge retention and voter information will be included on the October Administrative Conference agenda.

10. Judges Retirement Fund

Patti Tobias reported that HB660 from the last session provided for the administration of the Judges' Retirement Fund to be transitioned from the Supreme Court to PERSI upon receipt of the IRS letter determining that the Judges' Retirement Fund is a qualified plan. The Judiciary's request for the IRS determination letter has been pending for approximately six years, and it is anticipated that the letter will be received in FY14. The Administrative Conference will be kept apprised of any developments.

- a. An HB660 transition team will be appointed.
- b. Judge Stegner had also requested an opportunity to discuss his concerns about Plan B service. He expressed his view that there is an unintended consequence of district judges leaving early in their career, at a time they are the best and most capable. Another member of the Conference expressed the view that Plan B service could be a significant incentive for those coming to the bench after 50 and could be viewed as working both ways in terms of providing incentive for seasoned, bright attorneys to leave a lucrative practice to become a district judge. It was pointed out some district judges who also have PERSI service have indicated they would stay on the bench, but they feel they are "throwing away money" if they don't retire.

11. Maintaining effective relationships with legislators

Administrative District Judges and Trial Court Administrators were asked to write each legislator in their judicial district, thanking them for their support.

At 5:03 pm MDT, the Administrative Conference adjourned for the day.

The Administrative Conference reconvened at 8:33 am MDT on Friday, April 19, 2013.

D. Achieving the Court's Strategic Goals and Objectives

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

- a. Chief Justice Burdick and Kevin Iwersen were asked to update the Conference on recent developments. The Administrative Conference will be kept apprised of the Court Technology Committee's actions, as well as the work of the Design and Implementation Committee. The Committee recommends adoption of a strategic plan and approves the recommendation to pursue an RFP and timelines for a case management system.

Kevin Iwersen reviewed the proposed Court Technology Strategic Plan for the next few years, which outlines three strategic business themes: (1) improved access to information by both

internal and external stakeholders; (2) improved integration of information with business partners; and (3) the maximized efficiency of business processes. The enabling strategies for these priorities are standardization of data, forms, and business processes statewide; maintenance of case documents in electronic form and associated automated workflows; more use of videoconferencing and teleconferencing capabilities; and the development of full judicial information interfaces. He further noted that the Strategic Plan involves three major projects:

- building a statewide, high bandwidth high reliability network
- implementation of a state-of-the-art court management system
- implementation of e-filing and scanning

A question was raised about the statewide COOP plan and if it contemplates the infrastructure in place for the network and disaster recovery. There are two aspects to the plan—the business side and the technical side. A review will have to be done as it relates to the technical pieces. Patti Tobias informed the Conference that Roland Gammill and Kirk Grothaus have been working on the statewide COOP plan. They will be asked to provide an update on the status of the COOP plan at the next TCA meeting.

A question was also raised about archiving court records. There is currently a workgroup developing recommended standards for scanning and archiving court records.

Kevin reported on the status of the Court Technology Committee's efforts to develop an e-filing policy framework. It is anticipated the proposed policy will be ready for consideration by the Administrative Conference later this year.

Retired Chief Justice Trout briefed the Conference on the work of the Design and Implementation Team over the last few months as it has conducted an objective review of the case management system. During the review process, the team considered three options: (1) stay with the current vendor; (2) go to a multi-vendor approach; or (3) open up the search for other vendors (without excluding the current vendor). The team concluded the third approach was in Idaho's best interest. The team next considered the various procurement approaches that could be employed. After weighing the options, the team determined an RFP to be the best course. The team wanted to ensure due diligence and transparency in the procurement process and believes an RFP can accomplish those overall goals. This recommendation was embraced by the Court Technology Committee at its March meeting and is now recommended for approval by the Administrative Conference. The team has been working very diligently over the last three weeks to pull together the RFP and accompanying functional specifications, so that once approved the RFP can be released right away.

IT WAS MOVED BY JUDGE BOLLAR AND SECONDED BY LINDA WRIGHT TO ADOPT THE IT STRATEGIC PLAN AND TO PROCEED WITH THE RECOMMENDATION TO PURSUE AN RFP FOR THE CASE MANAGEMENT SYSTEM. THE MOTION PASSED UNANIMOUSLY.

Kevin Iwersen outlined a draft timeline, with the goal of releasing the RFP in early May following approval by the Court, so that a contract may be in place by July. He thanked the Design and Implementation Team for their quick and thorough work.

Action Items

- Roland Gammill and Kirk Grothaus will provide an update on the status of the statewide COOP plan at the next TCA meeting.
 - The recommendation to adopt the IT strategic plan as proposed by the Court Technology Committee and the recommendation to pursue an RFP for the case management system will be forwarded to the Court for its consideration.
- b. The important role of the respective judges associations in developing uniform best practices and the status of activities will be discussed.

Judge Juneal Kerrick outlined the work of the district judge workgroup on standardizing forms and business practices, and expressed appreciation for Judge Williamson's extraordinary efforts in this regard. Judge Kerrick asks that Administrative District Judges encourage the district judges in their districts to provide input and participate in this process.

Judge Bollar recapped the work of the magistrate judge workgroup on standardizing forms and business practices, and also expressed his appreciation for Judge Box who has been gathering and revising forms.

Patti Tobias encouraged the Administrative District Judges and Trial Court Administrators to encourage and support the work of these groups, and to bring the process into the daily fabric of work in their judicial districts.

2. "Best Practices: Powers and Duties of Administrative District Judges" will be updated for a final review at the April Administrative Conference

Administrative District Judges and Trial Court Administrators developed a guide to best practices to review and discuss with the Administrative Conference.

Senior Judge Barry Wood reminded the Conference that the Administrative District Judges and Trial Court Administrators worked over the last year to develop the proposed chart of "Best Practices: Powers and Duties of Administrative District Judges." Janica Bisharat added that no additional revisions had been suggested by ADJ's and TCA's since the February review and the document is now ready for final approval by the Conference.

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY KARLENE BEHRINGER TO ADOPT THE "BEST PRACTICES: POWERS AND DUTIES OF THE ADMINISTRATIVE DISTRICT JUDGES" AS WELL AS THE MEMO REGARDING STRENGTHENING THE ROLE OF ADMINISTRATIVE DISTRICT JUDGES. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The Best Practices: Powers and Duties of the Administrative District Judges and the memo regarding strengthening the role of the ADJ will be added to the ADJ manual and maintained on IKMS.
3. Senior Judges
Mediation for pay; potential conflict of interest. [Judge Shindurling's request]

Judge Shindurling described the concerns of the Seventh District relating to senior judges who also engage in private mediation practice. Specifically, there is a question as to whether it is ethical for a senior judge to receive payment from an attorney for a private mediation and then turnaround and

have that same attorney appear before the senior judge on a court matter. Following discussion, it was determined that Judge Shindurling and Burt Butler will ask the Judicial Council for an opinion on senior judges who also have a private mediation practice, and the potential conflict of interest.

Action Item

- Judge Shindurling and Burt Butler will ask the Judicial Council for an opinion on senior judges who also have a private mediation practice, and the potential conflict of interest.

4. Cross-branch Collaboration

What can we learn from the collaboration between the courts and the Division of Youth Services in Missouri? This new paper is the 7th in the series and was included in the Conference materials for information only.

E. Other Business

1. Proposed new rule relating to HB 30

Justice Eismann reviewed the proposed new civil rule relating to HB 30 regarding the administration of oaths and affirmations; amending Chapter 14, Title 9, Idaho Code, by the addition of a new section 9-1406, Idaho Code, to provide for a certification or declaration under penalty of perjury and to provide that such new section shall not apply to acknowledgements; and amending section 18-5402, Idaho Code, to further define a term and to make technical corrections. The proposed new civil rule would state: "Whenever these rules require or permit a written statement to be made under oath or affirmation, such statement may be made as provided in Idaho Code § 9-1406."

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE SHINDURLING TO ADOPT THE NEW CIVIL RULE RELATING TO HB 30 AS PROPOSED BY THE CIVIL RULES COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The new civil rule relating to written statements made under oath or affirmation will be forwarded to the Court for its consideration.

2. Productivity Strategies: The Conference was to be provided with an update on the status of productivity strategies adopted by the Conference, including judicial education and laptops (pilot).

Kevin Iwersen reported on the deployment status of laptops for those judges that opted for them. Touchscreen laptops are expected to arrive in approximately 45 days. Training on the new hardware will be provided as needed. The Conference was reminded that communication regarding the education election was sent out in November 2012.

3. Status of the SLRA and other rosters

Patti Tobias reported the following Court rosters are available and active unless otherwise noted:

- Capital Defense Counsel
- Child Custody Mediator
- Civil Case Mediator
- Criminal Case Mediators
- Domestic Assault Evaluators
- Domestic Violence Court Coordinators
- Parenting Coordinators

- Private Civil Litigation Evaluators
- Small Lawsuit Resolution roster is being rebuilt (4-2-13); formerly 135 individuals.

The Conference briefly discussed the status of a number of rosters maintained on the Court's website. Efforts are underway to update the SLRA roster. Communication has been distributed to those listed on the old roster, but only one response was received indicating that he/she would like to remain on the roster. There is not a substantial number of these cases filed a year and it may be that attorneys simply aren't interested in being included on the roster. Cathy Derden will review the civil rules regarding the roster and make a final effort to contact attorneys who were once included on the roster.

A question was raised regarding the interpreter rosters and why they were not included on the list. The interpreter rosters have recently been updated. The rosters are maintained in a different location within the Court's webpage. It was suggested that perhaps a link could be included on the Court rosters page.

Finally, members of the Conference were asked to report on any experience with the new vexatious litigation rule and to report whether or not pre-filing orders had been entered within their district. Members of the Conference were reminded that the rule requires the elected clerk to provide a copy of the pre-filing order to the Administrative Director of the Courts, who shall maintain a list of vexatious litigants subject to pre-filing orders.

Action Items

- Janica Bisharat will review the location for the court interpreter rosters and suggest any updates to the website as needed.
 - Cathy Derden will write an article for the State Bar's *Advocate* to encourage adherence to the current statutes and rules related to Court rosters.
4. Reports and Status – Rule 25: A copy of the quarterly reports were included in the Conference materials, as well as a recent inquiry pursuant to ICR 25(a)(12).
 5. Proposed Protocol: Administrative District Judges had previously requested a protocol to guide the district in the event a judge is arrested.

Senior Judge Wood reviewed the proposed protocol, indicating that the Supreme Court and Judicial Council will also be asked to review the draft protocol. Once final, the protocol will be included in the Administrative District Judge Manual.

Following discussion, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE BEVAN TO APPROVE THE DRAFT PROTOCOL DATED 10-22-12 TO GUIDE A JUDICIAL DISTRICT IN THE EVENT OF A JUDGE BEING ARRESTED, AS AMENDED BY THE ADMINISTRATIVE CONFERENCE. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The protocol to guide a district in the event a judge is arrested will be added to the ADJ Manual and maintained on IKMS.
6. EEO and Diversity Plan: The Administrative Conference will be asked to approve the plan. Andrea Patterson outlined the draft of an EEO and Diversity Plan for the Judiciary. The plan was presented separately from the Employee Handbook because of the need to meet current grant requirements. A concern was expressed regarding the level of responsibility for shared employees and the use of terms like "ensure" and "assure" when there may be limited control over county

employees. Following discussion, it was determined that for the grant requirements, Patti Tobias will approve the plan preliminarily and then the Conference will consider the EEO and Diversity Plan with the Employee Handbook in July.

Action Item

- The draft EEO and Diversity Plan will be reviewed in conjunction with the Employee Handbook at the July Administrative Conference.

7. Performance Evaluations: Judge Stegner was asked to report on the Council's efforts to upgrade the performance evaluation system for self-improvement and discuss concerns he has about performance problems and how best to address this.

Following the Administrative Conference motion in October 2012 to encourage 100% participation in the performance evaluation process, there has been widespread support among judges to participate in the program. Judge Stegner reported on the efforts of the Council to improve the performance evaluation program. An SJI grant application will be submitted by May 1. If received, the grant will provide technical assistance to develop a new performance evaluation instrument.

Judge Stegner reported that he is serving as chair of a performance evaluation subcommittee. The subcommittee has developed a recommendation for mandatory performance evaluations. This recommendation has not yet been considered by the Council. The subcommittee has also discussed the idea of having a mentor judge review the data with the judge who is being evaluated, and to also make the aggregate data (with no identifiable information) available to the AOC. In this way, the evaluations will not only be a tool for how an individual judge is performing, but also will help identify how a judicial district is doing with the administration of justice, as well as identifying wellness and educational issues. Judge Stegner emphasized the performance evaluations are for education and improvement only, and not for the public.

Administrative District Judges indicated they were still waiting to hear from Jim Carlson regarding who in their district was signed up for the program.

Action Item

- The Administrative Conference will be kept informed of the status of the grant application and any further developments relating to the performance evaluation program.

8. Rules: Judge Bevan asked if digital media should have a special rule, given the strict federal rules that govern evidence handling.

Judge Bevan described a recent case in the Fifth District where they were confronted with some unique issues relating to evidence handling. Following discussion, it was determined that Administrative District Judges and Trial Court Administrators will acquaint themselves with the evidence handling facilities in their courthouses. In addition, Michael Henderson and Cathy Derden will gather information regarding federal statutes and court rules from other states and develop a proposed rule for consideration by the Administrative Conference.

Action Items

- Administrative District Judges and Trial Court Administrators will learn more about the evidence handling facilities in the courthouses in their districts.

- Cathy Derden and Michael Henderson will research federal statutes and state court rules on evidence handling and develop a proposed rule for consideration by the July Administrative Conference.

9. JRF/PERSI Update: Andrea Patterson and Michael Henderson were invited to update the Conference regarding JRF members with prior PERSI service and their PERSI retirement benefit.

Michael Henderson reviewed the history of PERSI taking different positions on the status of a vested PERSI member when they become a district judge, which prompted the draft letter to the Attorney General's Office, asking for its analysis. The Administrative Conference will be kept apprised of any forthcoming response from the Attorney General's Office regarding the JRF/PERSI issue.

10. Pro Hac Vice Admission Fee Increase: Diane Minnich, Executive Director of the ISB, has written a letter advising of the amendment to Rule 227, which was included in the Conference materials.

11. Amendment to Misdemeanor Criminal Rule 9.4: The proposed format of Rule 9.4 reports was included in the Conference materials for consideration.

Kerry Hong presented the recommendations of the Misdemeanor Sentencing Advisory Team relating to the DUI evaluation reporting form. The proposed format is consistent with amendments made to MCR 9.4, including the risks/needs matrix and collection of information on the defendant's driver's license record.

The risk/needs screening component on the DUI evaluation reporting form is not to be used to determine the sentence, but to use to provide the court with appropriate treatment recommendations to inform sentencing. This language will be added to the form.

Evaluators will receive training regarding risk, need, and responsivity. As of July 1, evaluators will have to be associated with approved treatment facilities. If the court has a reliable evaluator, they need to become or be connected to an approved treatment facility so that there is sufficient administrative oversight, insurance, clinical supervision, etc.

Following discussion, IT WAS MOVED BY DAN KESSLER AND SECONDED BY JUDGE BOYER TO APPROVE THE DUI EVALUATION REPORT FORM CONSISTENT WITH THE AMENDMENTS TO MISDEMEANOR CRIMINAL RULE 9.4 WITH THE SUGGESTED CHANGES BY THE ADMINISTRATIVE CONFERENCE AND INCLUDING THE EXPLANATORY LANGUAGE ON THE USE OR NONUSE OF THE LSI-R SV. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to approve proposed amendments to MCR 9.4 will be forwarded to the Court for its consideration.

12. Guardianship and Conservatorship Committee: At the April 12 Guardianship and Conservatorship Committee meeting, a rule relating to ex parte communications was considered, and Kerry Hong presented the draft to the Administrative Conference for their consideration. The purpose and intent of the rule is to outline a process whereby a judge is allowed to receive and review communications about guardianship and conservatorship cases to determine if the communication relates to misconduct or malfeasance of the guardian or conservator.

Following discussion, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE RYAN TO APPROVE THE EX PARTE COMMUNICATIONS RULE AND FORWARD IT TO THE COURT FOR ITS CONSIDERATION. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to approve the ex parte communication rule as it relates to guardianship and conservatorship cases will be forwarded to the Court for its consideration.

13. Review Vacatur: Non-judicial reversal of district court final judgment

Judges Nye and Dunn asked that the Administrative Conference review their concerns regarding the appellate rule in re: Vacatur: Non-judicial reversal of district court final judgments.

The Conference discussed a recent case in the Sixth District where a district court decision was reversed based upon a stipulation of the parties and not based on a legal decision. The question discussed was whether or not the trial court should be allowed to weigh in before a reversal occurs. Members of the Conference agreed that the district judge should have the opportunity to be heard before the Court simply reverses a decision. Cathy Derden was asked to circulate some proposed amendments to the rule to the Conference via e-mail for comment prior to submission to the Court on April 24th.

Action Item

- Cathy Derden will circulate to the Administrative Conference via e-mail proposed amendments to IAR 13.5 relating to the non-judicial reversal of a district court final judgment.

F. Discuss Proposed agenda for July 16-17, 2013 Administrative Conference

- Proposed Leadership Institute (FY14 and ongoing)
- Medical O.R.
- Pardons (Parole Board) – Judge Brudie
- Pre-trial Release Programs
- Provide timely, fair, and impartial case resolution / Advancing Justice recommendations
- Felony Sentencing Committee (DJT, Probation Rules, PSI Reports)

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

July 2013 / Coeur d'Alene

Tuesday, July 16 (morning) Administrative District Judges Meeting

Tuesday, July 16 (morning) Trial Court Administrators Meeting

Tuesday, July 16 (afternoon) Administrative Conference

Wednesday, July 17 (morning) Administrative Conference

Wednesday, July 17 (afternoon) Start of ISB's Annual Meeting (runs through Friday, July 19

[Judges should plan to register for the Bar meeting if their schedules permit]

October 2013 / Boise

Thursday, October 17 (morning) Administrative District Judges Meeting

Thursday, October 17 (morning) Trial Court Administrators Meeting

Thursday, October 17 (afternoon) Administrative Conference

Friday, October 18 (morning) Administrative Conference

February 2014 / Boise

Monday, February 3 (morning) Clerks/Judges Conference

Monday, February 3 (afternoon) Administrative Conference

Tuesday, February 4 (morning) Administrative Conference

12:30 pm ~ ~ Adjournment

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE STEGNER TO ADJOURN, and the Administrative Conference concluded at 11:46 am MDT.