

MINUTES

ADMINISTRATIVE CONFERENCE

Tuesday and Wednesday, July 10-11, 2012 // Boise, Idaho

The Administrative Conference was called to order on Tuesday, July 10, 2012, at 1:20 pm MDT by Chief Justice Roger Burdick. Administrative District Judges in attendance included: Hon. John Mitchell, Hon. John Stegner, Hon. Tom Ryan, Hon. Michael Wetherell, Hon. Richard Bevan, Hon. David Nye, 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. In addition, Hon. Stephen Dunn joined the conference, as the soon-to-be Administrative District Judge for the 6th Judicial District.

Others members joining for all or part of the Conference included: Justice Joel Horton; Court of Appeals Chief Judge David Gratton; Hon. Juneal Kerrick, President – District Judges Association; Hon. Rick Bollar, President – Magistrate Judges Association; Hon. Ryan Boyer, Past-President – Magistrate Judges Association; Hon. Michael Oths – Secretary/Treasurer; Magistrate Judges Association; Roland Gammill; Janica Bisharat; Andrea Patterson; Taunya Jones; Hon. Michael Dennard; Scott Haverfield; Kerry Hong; Senior Judge Barry Wood, and Patti Tobias.

A. Approval of Minutes of the April 12-13, 2011 Administrative Conference

IT WAS MOVED BY JUDGE GASKILL AND SECONDED BY KARLENE BEHRINGER TO APPROVE THE MINUTES OF THE APRIL 12-13, 2012 ADMINISTRATIVE CONFERENCE. THE MOTION PASSED UNANIMOUSLY.

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

Chief Justice Burdick outlined the following updates:

1. FY13 Budgets

- a. The recommendation to rescind budget holdback policies effective FY13 was submitted to the Court for its consideration and approved.
- b. The recommendations relating to the additional compensation for non-judicial personnel was submitted to the Court for its consideration and approved.
- c. The detailed allocations by judicial district were circulated to the Administrative Conference and, with some adjustments, will be considered by the Court on August 8.

2. Advancing Justice: Idaho's Caseflow Management Initiative

The recommendation to appoint an Advancing Justice Committee was forwarded to the Court for its consideration and approved. A copy of the order appointing the committee was included in the conference materials.

3. Enhance the ability to efficiently conduct court business by developing technologies, especially electronic filing of all court documents

The recommendation to appoint a Court Technology Committee was forwarded to the Court for its consideration and has since been appointed, with the first meeting held June 1, 2012. A complete report was made later in the meeting.

4. Strengthening the Role of Administrative District Judges

The strategies to strengthen the role of Administrative District Judges were forwarded to the Court for its consideration, and were discussed later on the agenda.

5. Increase Awareness of the Importance of the Jury System

The Court had earlier approved a recommendation to appoint a Jury Committee. Janica Bisharat will prepare the proposed committee composition for consideration at the October conference.

6. Senior Judges Education and Orientation

The proposed policies for senior judge education and orientation upon initial assignment were forwarded to the Court by the Judicial Education Committee for its consideration following the June Judicial Education Committee meeting.

7. Proposed Supreme Court Rule Amendments

- a. Proposed amendments to court rules relating to criminal and civil mediation were forwarded to the Court for its consideration and adopted.
- b. The proposed amendments to the Idaho Rules of Civil Procedure and the Idaho Juvenile Rules were forwarded to the Court for its consideration and adopted.
- c. Recommendations relating to ICAR 32 exempting records in family law cases involving children from public disclosures were forwarded to the Court for its consideration and adopted.
- d. A summary of all rule amendments effective July 1 was included in the conference materials.

8. Court Rules Regarding Email Notices of Hearings

Proposed rule amendments regarding emailing notices from clerks' offices statewide were posted with the Bar for comment. After significant comments were received, it was determined that the proposals should be considered by the newly appointed Court Technology Committee.

Action Items

- Janica Bisharat will prepare the proposed composition for the Jury Committee for consideration at the October conference.
- The Court will consider proposed policies relating to senior judge education and orientation.
- As part of its work to develop an e-filing policy framework, the Court Technology Committee will consider proposed rule amendments relating to clerks' offices sending electronic notices.

C. Legislative and Budget Matters

1. FY13 Budgets

- a. Professional development recommendations for judges and justices were included on this agenda for review and discussion

The Legislature provided a 2% change in compensation in this session, effective July 1, 2012, for both judges and employees. The judicial compensation change, by the wording of the statute, cannot be implemented before the July 1, 2012, payroll. The April Administrative Conference had preliminary discussions regarding ways the outstanding service of Judges and Justices can be recognized or that their performance can be enhanced in lieu of early implementation of raises or short-term commendable payments.

Following the discussion at the April conference, Andrea Patterson, Roland Gammill, and Scott Haverfield prepared a memo on this topic, outlining other possibilities to improve productivity, including:

- (1) An educational and/or technology allowance;
- (2) A Wellness Program assessment for justices and judges, incentivized for participation; and/or
- (3) Contributions to deferred compensation as a one-time commendable.

Also included with their recommendations was a memorandum from Michael Henderson, which provided a legal review of these additional recommendations to enhance judicial performance, indicating that a technology and/or education allowance is permissible, incentivizing participation in a

wellness program may also be permissible, but that any deferred compensation contributions would not be permissible.

To better understand the possibilities of a technology enhancement, Scott Haverfield joined the Conference to describe two possibilities: an ultra-book which is thinner and smaller than a laptop but with full functionality (i.e., a full keyboard, USB ports, connectivity via Ethernet at every bench, etc.), and a tablet (Microsoft, which would be compatible with judicial branch software, i.e. ISTARs). He noted that it may be the end of 2012 before the release of Windows 8 with touch-screen capabilities.

Andrea Patterson described the concerted effort of the Wellness Committee to provide more resources to judges.

IT WAS MOVED BY CHIEF JUDGE GRATTON AND SECONDED BY JUDGE BOLLAR TO APPROVE THE THREE OPTIONS AS OUTLINED FOR (1) AN EDUCATION ALLOWANCE, (2) A TECHNOLOGY ALLOWANCE, AND (3) A WELLNESS PROGRAM ASSESSMENT FOR JUDICIAL RECOGNITION. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to provide judges and justices three options for an education allowance, a technology allowance, or a wellness program assessment will be forwarded to the Court for its consideration.
- b. A recommendation relating to the reinstatement of district conferences, or not, was included on the July 2012 Administrative Conference for discussion

By way of background, Patti Tobias described the district conferences held in the past, where joint conferences were planned (i.e. the 1st & 2nd, and 6th & 7th districts), with the programs developed to include local items of interest for county commissioners, elected and deputy clerks, judges, and sometimes other officials. Past practice required planning by the Trial Court Administrators, with assistance available from the Administrative Office of the Courts.

Following discussion, IT WAS MOVED BY JUDGE GASKILL AND SECONDED BY KARLENE BEHRINGER TO ASK TRIAL COURT ADMINISTRATORS TO DISCUSS WHETHER TO REINSTATE DISTRICT CONFERENCES AT THEIR NEXT MEETING OR CONFERENCE CALL, AND TO MAKE RECOMMENDATIONS FOR THE OCTOBER ADMINISTRATIVE CONFERENCE. THE MOTION PASSED UNANIMOUSLY.

Action Item

- Trial Court Administrators will discuss whether to reinstate district conferences at their next meeting or conference call and make recommendations for consideration at the October Administrative Conference.
- c. The question of whether or not a one-time commendable can be applied to a deferred compensation account will be discussed on the July agenda

As noted earlier in the meeting, it was determined that this is not a permissible option.

d. Discussion of the FY13 budget

- District-by-district detailed allocations: Roland Gammill provided a year-end update concerning financial items distributed out of one-time FY12 funds that had a district impact, including \$56,650 in one-time help for Domestic Violence Court Evaluations, distributed as follows:
3rd Judicial District: \$15,000
4th Judicial District: \$14,650
5th Judicial District: \$12,000
7th Judicial District: \$15,000

The Finance Office is formulating a memo to all Administrative District Judges and Trial Court Administrators detailing the FY13 allocations. Although Trial Court Administrators have reviewed a draft of the memo, allocations are being adjusted based on any one-time help available in FY12 and will be finalized for distribution following Court action at its August 8 Oral Conference.

- The status of the Hay Study: Andrea Patterson reported that the position description questionnaires (PDQs) are being catalogued and will be forwarded to the Hay Group. The Hay Group will provide the Court with its recommendations, based on internal equities and comparisons to Idaho and the other western states. The Court has set aside funds in the FY13 budget in anticipation of implementing some of the recommendations.
- DHW/Court plans regarding treatment dollars for misdemeanor offenders: One-time drug testing relief of \$174,300 will be provided in FY13, which will fully fund all drug court participants at \$400 per slot for FY13. In addition to testing, \$290,000 will be allocated to the 4th and 7th Judicial Districts in July and August for Substance Abuse Treatment. Kerry Hong joined the Conference to recap working with DHW to develop a plan to serve this population, using money which is in addition to the ATR funds the department continues to manage, targeting medium to higher-risk misdemeanor offenders, with a special emphasis on domestic violence court offenders.
- Effective evidence-based community supervision reduces recidivism and will favorably impact prison costs: The Court continues to work with IDOC regarding caseloads of probation officers. A preliminary budget request to the Governor seeks funding for 10 probation positions, moving the funding from the dedicated fund to the general fund, and the Administrative Conference was asked whether the Court should advocate on behalf of IDOC to fund those positions.

Following discussion, IT WAS MOVED BY JUDGE SHINDULRING AND SECONDED BY JUDGE KERRICK THAT THE ADMINISTRATIVE CONFERENCE SUPPORT THE NEED FOR ADDITIONAL PROBATION OFFICERS TO ENSURE FELONY OFFENDERS ARE SUPERVISED EFFECTIVELY IN THE COMMUNITY. JUDGE WETHERELL ASKED, AND JUDGE SHINDURLING AGREED, THAT THE MOTION BE AMENDED TO INDICATE "BECAUSE THE JUDICIARY BELIEVES IT IS MORE COST-EFFECTIVE TO SUPERVISE NON-VIOLENT CRIMINALS IN THE COMMUNITY THAN IN PRISON AND FOR THE ADVANCEMENT OF PROBLEM-SOLVING COURTS." THE AMENDED MOTION PASSED UNANIMOUSLY.

Action Item

- Patti Tobias will convey to IDOC that the Court supports the need for felony offenders to be supervised in the community because the Judiciary believes it is more cost-effective to supervise non-violent offenders in the community than in prison and for the advancement of problem-solving courts.

2. FY14 Budget Plans and Timelines / Preliminary Priorities

- a. Roland Gammill summarized the FY14 requests received, including general fund and dedicated fund requests. The dedicated fund requests will be circulated to the statewide coordinators for review and committee recommendations, which will then be prioritized and evaluated based on availability of funds. It was noted that if the sunset on the Emergency Surcharge is removed and the Court is able to retain the \$4.0 million in revenue, there will be a very limited amount of revenue that can be allocated for a very large number of requests.

It was noted that the 2007 blue ribbon committee report supported the need for a fifth Court of Appeals Judge and related staff. Although no formal request is currently on the table, further analysis and review should be considered for possible future implementation.

The current requests for new District Judges and Court Reporters are as follows:

- 3rd Judicial District: 1 position in Canyon County
- 4th Judicial District: 2 positions in Ada County
- 7th Judicial District: 1 position in Jefferson County

And requests for new Magistrate Judges are as follows:

- 1st Judicial District: 1 position in Kootenai County
- 3rd Judicial District: 1 in Canyon County
- 4th Judicial District: 3 in Ada County

Other items requested that are currently being analyzed include:

- Judicial pay increase
- Senior judge days
- Freelance court reporter rate
- Training opportunities (including district conferences)
- Drug testing funds
- Staffing for court service areas (e.g. family court coordinator, misdemeanor DUI court coordinator, DV case coordinator, etc.)
- Increase funding in court services areas (guardian ad litem, millennium funds, CAO, regional adult drug court)
- Additional treatment slots
- Laptops or IPADS for the judges' benches
- State funding for law clerk positions

Concerning the Guardian Ad Litem (GAL) funds, Nanci Thaemert has requested an increase of an additional \$300,000, to be applied to the current GAL allocation formula. Roland explained that the GAL fund is included on the General Fund page because it is a direct transfer from state General Fund to our dedicated fund, so any GAL increase has a direct impact on the General Fund.

Regarding additional staffing requests:

- Multiple requests for position reclassifications and salary equity issues requested for Court personnel are pending the Hay Study recommendations.
- The Supreme Court/Court of Appeals Clerk's Office requested an administrative assistant.
- Other Supreme Court positions to be looked at and analyzed for future consideration include a position for Intergovernmental Relations, a Public Information Officer (PIO), a Court Facilities Specialist, an HR Specialist, state-funding of law clerks, and filling the Trial Court Administrator position in the 2nd Judicial District.

In conclusion, Roland reported that the FY14 budget requests will be analyzed and prepared for recommendation and approval at the October Administrative Conference.

Action Item

- The FY14 budget requests will be analyzed and prepared for consideration at the October Administrative Conference.
- b. Judge Wood will recommend and the Administrative Conference will set preliminary priorities for FY14 at the July meeting, addressing the Emergency Surcharge, Advancing Justice, new judgeships, compensation, technology, district court personnel, and facilities.

Senior Judge Wood outlined the preliminary budget and legislative priorities for FY14, including:

- (1) Removal of the Emergency Surcharge sunset clause
 - (2) Compensation
 - (3) Funding for FullCourt Enterprise (FCE) and e-filing
 - (4) Advancing Justice, including new judgeships
 - (5) Supreme Court / local district court interface; analysis and inventory of needs, including personnel, facilities, and space planning
 - (6) Collection of court fees, fines, and costs
- c. Factors impacting judicial caseloads: Taunya Jones will complete the additional analysis of factors impacting judicial caseloads for the July Administrative Conference.

Taunya Jones provided the Conference with an overview of the process that will be utilized to assess and respond to the FY14 new judge requests, noting that new judge requests will be considered independently of the need to fill existing judicial vacancies. Multiple factors will be utilized in the review, including:

- (1) Documentation from Administrative District Judges and Trial Court Administrators regarding changes in caseloads/workloads as well as anecdotal information from judges that might serve as justification for additional judgeships.
- (2) Level of commitment from county commissioners to ensure that appropriate facilities and staffing will be available.
- (3) Amount of time elapsed since new judgeships were added.
- (4) Relevant caseload and population data.
- (5) Current and future developments in teleconferencing and other court technologies that may create opportunities for more efficient use of judicial resources.

The filings per judge and population were also reviewed, as well as a breakout by civil and criminal cases, showing a tremendous increase in civil cases (child protection was included in the civil, but juvenile was not included). An interesting note was that although there has been a decline of felony criminal cases since 2011, IDOC reports an increase in the prison population due to the increase in probation and parole violations.

Action Item

- Taunya Jones will examine current requests for new judgeships over the next few months, and develop recommendations for consideration at the October Administrative Conference.

- d. Final analysis and budget and legislative priorities will be set in October.

Action Item

- Final legislative and budget priorities for FY14 will be discussed at the October Administrative Conference.

3. Other Legislation of Interest

- a. Last session, the Court proposed a study of the fragmented collections system.

Patti Tobias reviewed an outline to “Develop a statewide business plan to improve collection of obligations owed by offenders,” noting that if the Administrative Conference agreed, a summit on court collections is contemplated for November, 2012.

Following discussion, IT WAS MOVED BY JUDGE BOLLAR AND SECONDED BY JUDGE MITCHELL TO CONVENE A SUMMIT ON COURT COLLECTIONS AS OUTLINED AND TO DEVELOP RECOMMENDATIONS TO BRING BACK TO THE ADMINISTRATIVE CONFERENCE. THE MOTION PASSED UNANIMOUSLY.

Action Item

- A summit on Court Collections will be convened to develop recommendations to bring back to the Administrative Conference.

- b. The May 15 elections will be discussed, including an assessment of the impact of the Closed Primary on judicial elections.

Patti Tobias reported that district judges had earlier been asked about the closed primary and whether or not it is an appropriate time to elect district and appellate judges. Although there was no consensus at that time, the Court will continue to monitor this issue and include it on future agendas to see if further action is necessary.

Action Item

- The Court will continue to monitor issues surrounding closed primaries, and include it on future Administrative Conference agendas to see if further action is necessary.

- c. The status of proposed legislation regarding domestic violence protection orders regarding stalking will be discussed (HB528).

Judge Dennard indicated that he will continue to monitor the proposed legislation, and noted it is his understanding a meeting is scheduled in August.

- d. Correspondence relating to Idaho Legal Aid Services (ILAS) legislation will be discussed (HB640).

Patti Tobias reviewed the recent history of the ILAS, noting that during this last session the Court had agreed to act as a pass-thru for the proposed legislation. For unknown reasons, the sponsors pulled the legislation at the end of the session. The Conference reviewed correspondence from the State Bar and ILAS, which gives some indication of what transpired. Subsequent correspondence from the board indicated they wish to recognize the Court for its help during the session. Any further movement with this issue will be monitored and reported to the Administrative Conference.

- e. The 19-2524 Pilot Project will be reviewed (HB 648).

Judge Wood provided a status update to the Conference regarding the 19-2524 pilot project, and he encourages judges to advise him of any problems or complications they encounter.

f. Public Defender progress tracking.

Judge Stegner reported on the July 9 meeting regarding progress tracking for the Public Defense Subcommittee, indicating the subcommittee recommends the creation of a new commission which would establish mandatory training, education, and CLE requirements for those engaged in public defense in an effort to institutionalize the training and improve the level of advocacy for the indigent. Once approved, the recommendations of the Criminal Justice Commission will be brought back to the Administrative Conference. Judges Stegner, Varin, and Box are all very active on the subcommittee.

4. Legislative Inventory

The Inventory of Potential Legislative Ideas, as maintained by Michael Henderson, was reviewed at the July Administrative Conference.

Patti Tobias outlined the process used to develop and maintain the Inventory of Potential Legislation, which is presented to the Administrative Conference each summer, for review prior to the final prioritization at the October Administrative Conference.

Action Item

- The Inventory of Potential Legislation will be reviewed at the October Administrative Conference for prioritization prior to the legislative session.

5. Looking to the Future: The Importance of Court-Legislative Relationships

Judge Wood reported on his work in the area of strengthening court-legislative relationships, noting that work is underway to develop an in-house way to track contacts and other pertinent information for legislators, and asked the Conference to assist with these efforts by forwarding any campaign literature or news articles about legislators. Additional information will be compiled and refined following the November elections and the December leadership meeting. Judge Wood stressed that the Legislative Review Teams act as great resources for the legislative process, are a great selling point for the Courts, and asked for full participation in this vital process.

Action Item

- Administrative Conference members are asked to forward any campaign literature or news articles about legislators to Patti Tobias or Senior Judge Wood, which will be compiled and refined following the November elections and the December leadership meeting.

~~ At 4:15 pm MDT, it was moved by Judge Dunn to adjourn for the day.

~~ **At 8:34 am MDT on Wednesday, July 11, 2012, the Administrative Conference was reconvened by Chief Justice Roger Burdick.**

D. Achieving the Court's Strategic Goals and Objectives

1. Advancing Justice: Idaho's Caseflow Management Initiative

a. Judge Wood provided an update on Advancing Justice efforts, including:

- the appointment of an Advancing Justice Committee; a meeting will be scheduled this fall; and updates will be brought back to the Administrative Conference.
- time standards and performance measure are under review, with the help of national consultants John Greacen and Tom Clarke. Taunya Jones noted that during the review, the consultants are helping us find a balance between efficiency and effectiveness by

evaluating what is a performance measure versus what is an operational management tool. Judge Wood also indicated that input on these issues has been sought from relevant court committees, certain sections of the State Bar, lawyers around the state in certain areas of practice, and trial judges have been interviewed by phone.

- issues with turnaround times on state lab tests. Patti Tobias noted that a response was just received this morning from Colonel Russell addressing these issues, with target dates set on several of the items identified.

Patti Tobias informed the Conference that the legislature is very aware of the Court's Advancing Justice efforts, with top to bottom reviews looking for efficiencies.

- b. Population and caseload trends by district were discussed earlier on the agenda.
- c. Develop "best practices" for the assignment and effective use of senior judges.

Judge Ryan had earlier requested the Administrative Conference discuss best practices for the assignment and effective use of senior judges. In response to that request, Judge Wood outlined the following plan to develop best practices and submit recommendations for consideration by the October Administrative Conference in the following areas:

- Performance Evaluations (see agenda item E.1.)
- Training and orientation regarding local district practices, case management, and local legal culture
- Communications / expectations
- Review and update the Senior Judge Manual, including Plan B rules
- Assess existing assignment practices and how districts are gauging effectiveness

Action Items

- Trial court administrators will develop best practices relating to assignments to senior judges.
 - The Senior Judge Manuals will be reviewed and updated as necessary.
- d. BJA Criminal Courts Training and Technical Assistance Project (Kootenai, Jerome, and Washington counties); materials were provided to the Conference for review.

2. Enhance the Ability to Effectively Conduct Business by Developing Technology, Especially Electronic Filing of All Documents

The Court appointed a Technology Committee, which held its first meeting on June 1, 2012. A copy of the order appointing the committee, the technology assessment, and minutes of the first meeting were included in the materials for reference.

Chief Justice Burdick, chair of the new Court Technology Committee, reviewed the background which led to the appointment of the committee, including: the work of the Advancing Justice workgroup to improve statistical reporting for effective caseload management; the departure of IT Director John Peay; and questions regarding the long-standing relationship with JSI and their capacity to provide a state-of-the-art case management system with requisite support. Because of these and other issues, a top to bottom assessment of the Idaho Court's technology system was conducted by national consultants John Greacen – Greacen Associates, and Tom Clarke and Paul Embley from the National Center for State Courts (NCSC), resulting in their June 12, 2012 report.

Chief Justice Burdick reported the Court has embraced a number of recommendations made in the assessment, including the following:

- Maintaining the Court's relationship with JSI;
- Converting from ISTARs to FullCourt Enterprise as quickly as possible and to make this implementation its highest IT priority;
- Stop all ISTARs enhancement activity;
- Postpone further e-filing software development until Enterprise has been configured for Idaho;
- Develop a comprehensive e-filing business model and supporting technical, fiscal, operational, and legal policies; and
- Develop a statewide redundant high bandwidth telecommunications network capable of supporting the Enterprise implementation and statewide telepresence.

It is anticipated that by the end of the year, the Court Technology Committee will have formulated recommendations for a strategic plan and an e-filing policy framework. The first meeting of the committee was organizational. The second meeting included a demonstration of FullCourt Enterprise. Detailed minutes of the meetings are made available via the *Court E-News*. Judge Day will also be submitting regular updates regarding the work of the Committee in the *Court E-News*. Chief Justice Burdick recognized Judge Day for his leadership and support for more standardization in practice.

The Conference discussed working through the respective magistrate and district judges associations to come together and propose some standardized forms and business practices to the Court Technology Committee and ultimately the Administrative Conference. Patti Tobias, Judge Kerrick and Judge Bollar will plan out how that role can work most effectively, sequence what business practices will be looked at first, and formulate a plan for how they can coordinate those efforts with the work of the Court Technology Committee.

On behalf of Judge Greenwood, Judge Wetherell distributed a written response to the technology assessment, which included questions regarding the decision to maintain the contract with JSI. Chief Justice Burdick and other members of the Court Technology Committee responded to some of the questions raised.

Action Items

- The Administrative Conference will be kept apprised of the Court Technology Committee's actions, with anticipated project timelines and budgets available at the October Administrative Conference.
- Patti Tobias, Judge Kerrick and Judge Bollar will meet to discuss the work of the respective judges associations in developing uniform business practices.

3. Strengthening the Role of Administrative District Judges

Other aspects of strengthening the role of Administrative District Judges were discussed at the July meetings with the Administrative District Judges and Trial Court Administrators.

Judge Wood reviewed the work of the Administrative District Judges and Trial Court Administrators meeting held the previous day, including:

- Working to develop a leadership training program: Judge McLaughlin and the Judicial Education Committee are working on this program, and Judges Kerrick and Bollar will be attending a national training program and bringing back information and ideas for possible inclusion.
- Working to improve communications: Administrative District Judges asked to meet three times a year, preceding the already scheduled Administrative Conferences in April, July, and October.

- Staggering the terms of Administrative District Judges, to avoid large turnovers, has already been implemented.
- Discussing remuneration continues, and although no specific recommendations have been made, it will be forwarded to the Administrative Conference for further consideration.

E. Other Business

1. Senior Judges: Proposed performance evaluations for senior judges were discussed at the July Administrative Conference. The potential adaptation of current “evaluation” systems were considered.
 - Idaho Judicial Council – candidates
 - 18-month District Magistrate Commission evaluation
 - Idaho Judicial Council “voluntary” performance evaluation
 - There are also national models that can be considered.

As the senior judge program matures, it is necessary to develop business practices to ensure the work is performed capably and efficiently. This can be accomplished through training, improved assignment practices, identifying the most effective use of senior judges, and conducting performance evaluations.

Andrea Patterson reviewed a memo regarding senior judge evaluations, dated June 21, 2012, outlining the Court’s request for recommendations for the education and performance evaluation of senior judges. Voluntary performance evaluation forms currently used by the Idaho Judicial Council and the evaluation form used by the Magistrate Commissions for the 18-month evaluation were included in the conference materials in an effort to prompt some preliminary discussion. Andrea noted additional areas of potential evaluation include:

- current legal knowledge
- communication
- case management and productivity
- work ethic
- adaptability
- good health

Additional suggestions or items of concern voiced by conference members included:

- feedback from active judges would be helpful
- at some point, should require a physical, baseline mental acuity, and hearing exam
- how to fairly assign cases to a senior judge (instead of leaving them with really difficult cases)
- exam(s) should be annual
- address those that have assignments in multiple districts
- the deputy court clerks would be in the best position to make a comparative analysis, which could be completed every time a senior judge works
- balance what is most effective and appropriate for all (clerks, attorneys, etc.)
- advise the Judicial Council of concerns when evaluation score is lower
- Administrative District Judges voted at their meeting to be polled and report to the Court along with every application for senior judge as to the suitability for service as a senior judge
- a performance evaluation should be attached to the initial application for service
- as new judges are added, will it reduce the need for senior judges? Will always be a balance; what are the industry standards regarding use of emergency and temporary resources?

Following discussion, IT WAS MOVED BY JUDGE STEGNER AND SECONDED BY JUDGE BEVAN TO RECOMMEND TO THE SUPREME COURT IMPLEMENTATION OF ANNUAL PERFORMANCE EVALUATIONS FOR ALL SENIOR JUDGES. THE MOTION PASSED UNANIMOUSLY.

Action Items

- The Administrative District Judges and Trial Court Administrators will be asked to develop recommendations for training all judges to most effectively utilize senior judges.
 - Specific recommendations relating to the performance evaluations of senior judges will be submitted to a future Administrative Conference for its consideration.
2. Judge Stegner letter dated March 29, 2012, requesting the Court to rescind ICR 25(a) and IRCP 40 (d)(1).

Judge Stegner outlined his support for rescinding ICAR 25(a) and IRCP 40(d)(1). He provided specific examples that he believes illustrate the problems resulting from these rules. Some expressed the view that a fail-safe has been built into the rule that allows for a way to address abuses and they no longer believe there is a problem. Others agreed it might be better to fine-tune the rule.

FOLLOWING DISCUSSION, IT WAS MOVED BY JUDGE STEGNER AND SECONDED BY JUDGE WETHERELL TO RECOMMEND TO THE SUPREME COURT THAT DISQUALIFICATION RULES ICR 25(A) and IRCP 40 (d)(1) BE RESCINDED. Following members of the conference describing their experiences with the rules and their perspective on whether or not the rules should be rescinded, THE MOTION PASSED (11 AYE / 8 NAY).

IT WAS FURTHER MOVED BY JUDGE STEGNER AND SECONDED BY JUDGE MITCHELL THAT THE ADMINISTRATIVE CONFERENCE RECOMMEND TO THE SUPREME COURT A REPLACEMENT DISQUALIFICATION RULE WHICH WOULD PROVIDE FOR AN ALTERNATE JUDGE TO RULE ON THE REQUEST FOR DISQUALIFICATION. THE MOTION PASSED (16 AYE / 3 NAY).

Action Item

- The Administrative Conference suggested harmonizing the Canon of Judicial Ethics with the proposed disqualification rules, and circulate the proposals for comment before forwarding the proposed rule to the Supreme Court for consideration.
3. Proposed rule from the Media/Courts Committee: Following the Media/Courts Committee, the proposed rule will be brought back to the July Administrative Conference.

Patti Tobias reported that Michael Henderson was currently on medical leave and unable to attend the meeting. The conference agreed to review the proposed rule and provide final feedback via e-mail.

Action Item

- The proposed rule from the Media/Courts Committee will be circulated to the members of the Administrative Conference inviting final thoughts.

4. Ideas relating to general election days and other ways to deal with the holiday: Due to time constraints at the April Administrative Conference, the item relating to general election days was postponed to the July Administrative Conference.

Because Michael Henderson was on medical leave and unable to attend the meeting, it was suggested that he and Judge Day work to develop recommendations relating to non-judicial days. Judge Stegner suggested that other holidays be considered, citing November as an example with election day, Veterans' Day, and Thanksgiving.

Action Item

- Michael Henderson will work with Judge Day and disseminate recommendations relating to non-judicial days to the Administrative Conference for review and comment.
5. District Court Personnel

There has been a recent decision of interest in Canyon County, and three actions filed relating to District Court personnel and budgets in Kootenai County. Because these decisions and actions are a matter of general importance to the courts, Michael Henderson provided the following information to the Conference on these matters:

 - a. Hemenway v. Canyon County – District court decision granting summary judgment on wrongful termination to former juvenile probation officer whose employment was terminated by the county commissioners without consultation or agreement from the ADJ or TCA.
 - b. Watson v. Mitchell – Petition by Kootenai County Sheriff for writ of prohibition and writ of mandate regarding authority to hire and supervise court security officers; dismissed by Idaho Supreme Court on June 21, 2012.
 - c. Hayes v. Mitchell – Petition by Kootenai County sheriff for writ of prohibition and writ of mandate regarding supervision of certain personnel performing court functions. Still pending before the Court.
 6. District Magistrate Commission – Applications Process

Burt Butler suggested that a uniform application process be adopted, addressing a difference of practices relating to letters of reference and writing samples, such as:

- 4th district: writing samples are not allowed; letters of reference are permitted
- 5th district: writing samples are not permitted; date certain on letters of reference
- 3rd district: writing samples are accepted; date certain on letters of reference (how much do letters of reference letter mean, commission put limit on number)
- 1st district: writing samples are accepted; letters of recommendation accepted
- 2nd district: writing samples are accepted; letters of recommendation are limited to 3-5
- 6th district: writing samples are not accepted; letters of recommendation are accepted with date specific (no limit on number)
- 7th district: writing samples are not accepted; letters of recommendation with date certain

Action Item

- At the next Trial Court Administrators conference call, the court administrators (with Andrea and others), will discuss best practices and forward recommendations to the Administrative Conference.

7. Problem-Solving Protocol

A need has been identified to make available a very simple protocol to address different situations encountered by court personnel in the performance of their duties. The Conference discussed the draft protocol, included in the materials, and had no objections to its use.

F. Discussed Proposed agenda for October 11-12, 2012 Administrative Conference

- Senior Judge assignments (best practices)
- Proposed updates to the Senior Judge Manuals
- Strengthening the role of Administrative District Judges – recommendations
- Senior judge evaluations -- recommendations

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

October 2012

Thursday, October 11 (morning) Administrative District Judges Meeting
 Thursday, October 11 (morning) Trial Court Administrators Meeting
 Thursday, October 11 (afternoon) Administrative Conference (Boise)
 Friday, October 12 (morning)..... Administrative Conference (Boise)

February 2013

Monday, February 4 Clerks/Judges Conference (Boise)
 Tuesday, February 5 Administrative Conference (Boise)

April 2013

Thursday, April 18 (morning)..... Administrative District Judges Meeting
 Thursday, April 18 (morning)..... Trial Court Administrators Meeting
 Thursday, April 18 (afternoon) Administrative Conference (Boise)
 Friday, April 19 (morning)..... Administrative Conference (Boise)

I. Adjournment: IT WAS MOVED BY JUDGE DUNN TO ADJOURN, and the Administrative Conference concluded at 11:50 pm MDT.