

Witness in Boise murders points out shooter

Idaho Statesman.com: Jan. 22- John Sowell

Jeanette Juraska initially told police she didn't know who shot her in the arm and fatally injured her boyfriend and his friend. Testifying Friday at the murder trial of John C. Douglas and Anthony Robins Jr. that she wasn't coherent after being given a painkiller and that she was scared for her life. A Boise police detective said she told him an hour after the May 8, 2014, shootings that she told him she didn't want to be labeled as a "snitch." Hours later, Juraska told detectives the shooter someone she knew as "Big Man," a man from Pennsylvania she had met several months earlier at a marijuana farm in Northern California. In court on Friday, Juraska stood up and pointed to Douglas, 45, as the man who pushed his way through the door of her South Orchard Street apartment and shot Travontae Calloway and Elliott Bailey. She stood again and pointed out Anthony Robins Jr. as the man who rode with her and her boyfriend, Calloway, on a trip to the California pot farm. Juraska said she sat across a table from Douglas for several days trimming marijuana leaves. The man spoke with an "East Coast accent" and told her he was from Philadelphia. Juraska repeated the account she gave at a March preliminary hearing for Douglas and Robins. On May 8, Juraska, Calloway and Bailey were at the Orchard Street apartment celebrating Calloway's 27th birthday. When the doorbell rang, she went to the door, assuming it was a delivery driver bringing a pizza they ordered. She opened the door, she said, to Samari Winn, a friend of Calloway and Bailey, who had been at the apartment earlier. A second man then pushed his way through the doorway. "The door pushed open and the shooter came in. The gun went off," Juraska testified "I ran up the stairs and he shot me. I felt the bullet go through my arm." She said she yelled down to Calloway and Bailey but didn't get a response. When she went downstairs, Calloway was crawling across the floor and told her to call 911. Both men later died. Robins, from Fremont, Calif., allegedly suspected the two men of stealing 30 pounds of marijuana from a Boise home where it was being stored. Prosecutors, who valued the pot at \$100,000, said Robins arranged with Douglas to have Calloway and Bailey killed. Defense attorney Jack McMahon, representing Douglas, pressed Juraska on why she didn't identify Douglas from the beginning. "Because I was scared for my life and I was more worried about the well-being of the other two," said Juraska, who said she no longer lives in Idaho and who was accompanied to court by four federal security officers. Initially, she was not told that Calloway and Bailey had died. She initially told detectives only that the shooter was a large black man who wore a sweatshirt and a "beanie" pulled low over his head. She testified Friday that she spent a year as Calloway's girlfriend but didn't know the source of his money. She denied knowing that Calloway was a drug dealer, though when pressed she said she knew Bailey and his associates were. Juraska said a friend told her that Calloway and Bailey were accused of stealing the marijuana on Halloween Day 2013, but she did not talk about those allegations with her boyfriend. On the day of the shooting, Juraska said she took a codeine-based pill for back pain. She had also taken Xanax, used to treat anxiety, and two shots of liquor during the birthday celebration. She said she was not impaired by anything she had taken before the shootings took place and had a clear memory of what happened. Emergency room doctors and police detectives said she was not under the influence of drugs or alcohol when they spoke with her. Boise police Detective Jason Pietrzak testified that Juraska told him she was worried about being labeled a snitch. The jury trial is expected to last through Feb. 5.

Lawyer in Boise double murder case also represents Bill Cosby

Idaho Statesman.com: Jan. 22- Mary Claire Dale/ AP

Since he agreed to represent Anthony J. Robins Jr. in the South Orchard Street killings, Philadelphia attorney Brian McMonagle has picked up an A-list client. McMonagle, one of two lawyers representing Bill Cosby in a sexual assault case, is a revered criminal defense attorney whose past clients include organized crime members, rappers, athletes and the Roman Catholic Archbishop of Philadelphia during the searing priest-pedophile scandal. "He takes a very, very aggressive posture, but does it in a diplomatic and smooth fashion. It's almost like an iron fist in a velvet glove. He is a strong advocate for his client, but can break tension with a quip or a joke," said fellow Philadelphia criminal lawyer William J. Brennan. "Mr. Cosby is lucky to have him." In Boise, McMonagle is representing Robins against charges that he ordered a hit on drug dealers Travontae Calloway and Elliott Bailey in May 2014. The two Boise men were accused of stealing 30 pounds of marijuana, valued at \$100,000, from a home where it was being stored. In the Cosby case, McMonagle, 57, is expected to lead the defense arguments inside the courtroom when Cosby, 78, returns to court Feb. 2 in a crucial bid to have his case dismissed. McMonagle will attack the 12-year delay to file charges, the use of Cosby's deposition from accuser Andrea Constand's civil case, and the government's plan to call other accusers to show a pattern of behavior. But attorney Monique Pressley will be the lawyer people see on TV in their living rooms. She is a TV legal analyst with side jobs as a pastor, motivational speaker and radio host. She got a taste of the limelight as a law student, posing a question about race in the O.J. Simpson trial on CNN's "Larry King Live." Pressley, 45, was plucked from relative obscurity to lead the sprawling flock of lawyers Cosby has deployed to fight sexual assault and defamation battles in Pennsylvania, Massachusetts and California, involving some of the dozens of women who accuse him of drugging and molesting them. After stints as both a prosecutor and public defender in Washington, D.C., she was doing TV commentary on the case when she impressed someone in the Cosby camp last fall. Constand, now 42, went to police in 2005 to allege that Cosby had drugged and violated her a year earlier at his home near Philadelphia. Cosby called the contact consensual. McMonagle will argue that a former prosecutor made a deal that Cosby would never be prosecuted and could therefore testify, without invoking his right not to incriminate himself, in Constand's later civil suit. In the deposition, unsealed last year, Cosby detailed his romantic interest in Constand, who is gay; his pursuit of other young women during his long marriage; and his use of quaaludes in the 1970s as a seduction tool. He settled with Constand soon afterward. Incoming District Attorney Kevin Steele pondered that testimony, along with the dozens of new accusers, and decided to charge Cosby weeks before the 12-year statute of limitations expired this month. He has said there is no evidence that Cosby had an immunity deal with former prosecutor Bruce Castor. McMonagle has pulled off wins in cases no less difficult. He unearthed a lab error in a drug-linked date rape case involving a local GOP official; helped persuade authorities not to charge future NBA standout Tyreke Evans as an accessory in a fatal 2007 shooting; and helped Cardinal Anthony Bevilacqua avoid testifying in open court in the priest sex-abuse case. The elderly Bevilacqua died before a loyal aide was convicted in 2012 of keeping the church's sordid secrets under lock and key.

Idaho judge tosses ACLU lawsuit over public defense

Lewiston Tribune: Jan. 23- Kimberlee Kruesi/AP

BOISE - An Idaho judge has dismissed a lawsuit against the state seeking to improve the public defense system in Idaho, saying the case did not merit judicial action because it is not up to the courts to legislate standards. "The court is sympathetic with plaintiff's plight. However, the case invites the court to make speculative assumptions regarding the outcomes of individual cases," 4th District Judge Samuel Hoagland said in his ruling. He said the lawsuit asks him to presume "that all indigent criminal defendants in all counties are receiving the same ineffective assistance of counsel, and then issue blanket orders halting all criminal prosecutions until the issues are resolved." The American Civil Liberties Union of Idaho sued the state in June, contending that state officials have known for years that Idaho's public defense system was broken and prevented defendants from receiving adequate legal representation guaranteed by the U.S. Constitution. Though the ACLU has brought similar cases over public defense systems in parts of Michigan, Washington and other regions, attorneys on the Idaho lawsuit said it's the first such case against an entire state. ACLU-Idaho Executive Director Leo Morales said the organization would appeal the ruling. "We disagree with the court that it has no role in deciding the fate of our constitutional right to adequate representation," Morales said in a prepared statement. "But we agree with the court in one key respect: Idaho's system of public defense is a failure, one that the governor and the Public Defense Commission have the power - and duty - to fix." Hoagland did say that the state's current public defense system is problematic and disagreed with state attorneys who said Gov. C.L. "Butch" Otter and the Idaho Legislature have no responsibility to provide public defense. "The governor has a duty to ensure the Constitution and laws are enforced in Idaho," Hoagland wrote. "The governor also has direct supervisory authority over those responsible to establish standards for a constitutionally sound public defense system." A spokesman for Otter declined to comment. Hoagland issued his decision Wednesday, but the parties involved in the case didn't receive copies of the judgment until Friday. The ACLU reached settlements in New York and Washington after the U.S. Justice Department intervened on the ACLU's behalf and state officials agreed to sweeping reforms. Hoagland primarily took issue with the ACLU naming four plaintiffs - who say they've spent months in jail without speaking to their court-appointed attorneys or that their cases weren't properly reviewed - as proof the entire system needed to be revamped. The lawsuit requested the state judge to order Idaho's elected officials to implement and fund a better system, but Hoagland said that violated the separation of powers between the branches of government. Idaho's public defender system has been at focus recently, since a report from the National Legal Aid and Defender Association found in 2010 that indigent defendants facing criminal trials weren't getting adequate representation. The problems included a lack of communication between court-appointed lawyers and their clients, poor or nonexistent legal investigations, deficient funding and a lack of oversight. An interim legislative committee has been working on finalizing legislation to better the public defense system that will be introduced this year no matter the outcome of the lawsuit. Idaho is one of just three states that don't provide funding for public defense. Instead, Idaho's 44 counties are on the hook to provide public defenders. Many choose to contract private attorneys to do the work.

Prosecutors: No new trial for Capone

Lewiston Tribune: Jan. 23- Elizabeth Rudd

MOSCOW - Comments made by a cellmate aren't enough to persuade Latah County prosecutors that Charles A. Capone should get a new trial for Rachael Anderson's murder. Latah County Prosecutor William Thompson Jr. and Senior Deputy Prosecutor Mia M. Vowels filed a response this week to Capone's motion for a new trial, asking Senior Judge Carl B. Kerrick to deny the man's request based on substantial evidence proving Capone killed his estranged wife. Capone's attorneys, D. Ray Barker and Mark Monson, filed the motion earlier this month, claiming statements made by David C. Stone's former cellmate "would likely produce an acquittal in this matter." Capone, 54, was convicted of charges including first-degree murder for strangling Anderson outside his automotive repair shop April 16, 2010, in Moscow. He later dumped her tarp-wrapped body in the Snake River off Red Wolf Crossing Bridge with Stone's help. A Latah County jury rendered a guilty verdict in September 2014 after a 12-day trial. Both Capone and Stone, 52, were charged with murder and conspiracy related to the Clarkston woman's disappearance. Stone later confessed to finding Capone on top of Anderson with his hands around her neck. Stone was then threatened into helping his former friend dispose of her body. But according to Capone's attorneys, statements allegedly made by Stone's former cellmate, Tyler Beyer, contradict that story. Beyer reportedly told a deputy with the Latah County Sheriff's Office that Stone said "they would never find (Rachael) Anderson's body in the river because it was not there," according to court documents. Beyer made the comment to a sheriff's deputy in March, when he was arrested for allegedly driving under the influence, according to an affidavit by Latah County Sheriff's Lt. Tim Besst. Beyer reportedly told Besst that Stone made the comment when they shared a cell at the Latah County Jail in July 2013, according to the affidavit. Barker and Monson assert in their motion that Stone's testimony and eyewitness account was the heart of the state's case against Capone, and the information Beyer provided in March would have affected the outcome of Capone's trial. The motion alleges prosecutors did not provide any other witnesses or evidence regarding the method of Anderson's death or disposal of her body. Thompson and Vowels argue in their response that they provided "substantially more evidence than the statement of David Stone that (Capone) was responsible for Rachael Anderson's murder." The prosecution called 44 witnesses and presented 220 exhibits during the trial, compared to the defense's 25 witnesses and approximately 69 exhibits, according to the response. Prosecutors assert that the evidence was clear Capone did not want to lose Anderson to divorce, that "he sabotaged her car, stalked her and harassed her in failed attempts to force her back to him," and was the last person to see her the night she went missing. The evidence was also clear to jurors that Capone murdered Anderson, disposed of her body and then attempted to cover it up, according to court documents. Thompson and Vowels argue statements Stone allegedly made to Beyer would be "inadmissible hearsay" rather than material evidence in the case and could not be offered for the truth of the comments. Even if the statements were allowed in court, the remarks could only be presented in a way to discredit Stone's testimony and show inconsistency with past statements. Prosecutors wrote in their response that the newly discovered evidence "is not likely" to produce an acquittal. Thompson and Vowels argue that Barker spent approximately six hours "attacking" Stone's credibility during the two days he spent testifying in the case and failed to sway the jury of Capone's innocence. "Even with the lengthy cross-examination conducted by the defense of Mr. Stone, the jury reached a unanimous verdict finding (Capone) guilty as charged," they wrote. The prosecutors assert in their response that a list of 156 inmates housed with Stone was sent to Barker and Monson prior to Capone's trial and Beyer was included on that list.

Jury hears more about brother who was killed

Coeur d'Alene Press: Jan. 23- David Cole

Defense witnesses paint picture of 'aggressive' boy who would 'target' school staff members. COEUR d'ALENE — Jurors in teenager Eldon Samuel III's double-murder trial learned just a little more Friday about Jonathan Samuel, the brother who was 11 months younger, had autism and was brutally shot and chopped with a machete on March 24, 2014. In brief periods on the witness stand in the 1st District Court trial, witnesses called by Eldon Samuel's defense team shared anecdotes about the younger boy. Samuel, who is 16 and being tried as an adult, is charged with murder for killing his 13-year-old brother and their father, Eldon Samuel Jr., in a Coeur d'Alene home. While the defense has worked to show the father was a violent man and that he was killed by Samuel in self-defense, nothing had been presented to jurors to explain why the brother was killed. Testimony by teachers and others called by the defense Friday tended to paint the younger brother as "aggressive" and a student who would "target" school staff members. In contrast, defense witnesses described Eldon Samuel III as an ideal inmate since his arrest and a quiet and polite student when he was in school — and the one left to care for his brother because his parents were drug addicts. "There were a lot of red-flag issues with Jonny," said Kim Hamby, a school leader from Turlock, Calif. The boys and their father lived in California before moving to Coeur d'Alene. "Jonny was very disruptive," said Kellee Yoder, a special education teacher at Sierra Vista Child and Family Services in California. Jonathan Samuel was her student from October 2011 to May 2012. "Did he have any unusual behaviors?" Public Defender Linda Payne asked. "He did," Yoder responded. Teachers described Jonathan as a kid who showed up to school with nearly perfect attendance, but was often dirty, in ragged clothes, and had to be taught how to clean himself. He had a few peculiar behavioral habits, too, like having fun memorizing people's birth dates and drawing female breasts. Jonathan Samuel attended Canfield Middle School before he was killed. To further paint a picture of their client, defense attorneys called employees of the Kootenai County Juvenile Detention Center where Samuel is staying. Detention center staff members said he talks more since he arrived, smiles and laughs occasionally, and has grown several inches, put on weight and gotten stronger through exercise. He spends a lot of time reading. They said he has earned "honor status" at the detention facility. Linda Hoss, assistant director of the facility, said only eight kids have received that status for good behavior in the 23 years she has worked there. "He has a little bit of a sense of humor (now)," Hoss said. "He didn't understand jokes" detention center staff members made when he first was jailed there. Other doctors and teachers are scheduled to testify Monday in the trial, and the defense team plans to call its expert witnesses Tuesday. The trial could wrap up next week. "I don't know if we'll finish next week," Judge Benjamin Simpson told the jury Friday. "It will be really close."

Boston mobster changes mind, pleads guilty to Idaho charge

Idaho Statesman.com: Jan. 25- John Sowell

Boston mobster Enrico Ponzo entered a guilty plea Monday in federal court in Boise to a single count of unlawful possession of 33 firearms. Ponzo, 47, had been scheduled to go to trial next month on 16 counts of weapons violations and identity theft. A plea agreement was filed Friday, one day after Senior U.S. District Judge Edward J. Lodge approved a government motion to dismiss 11 counts of identity theft and aggravated identity theft. Those charges were tied to numerous driver's licenses and state identification cards Ponzo had illegally obtained during 16 years on the run. Prosecutors agreed to drop three other weapons charges and possession of documents used to obtain the fake IDs in exchange for Ponzo's guilty plea. He faces up to 10 years in prison and a fine of up to \$250,000 on the weapons charge. Ponzo spent more than a decade in Idaho posing as a Marsing rancher, Jeffrey John "Jay" Shaw. Authorities learned Ponzo's real identity and took him into custody on Feb. 11, 2011. Police then seized 22 rifles, eight handguns and 34,000 rounds of ammunition from his home in the 6100 block of Hogg Road, located south of the Snake River between Homedale and Marsing. He was returned to Boston to face numerous charges, and in 2014 was sentenced to 28 years after a jury found him responsible for the attempted killings of two rivals, including Mafia leader Francis "Cadillac Frank" Salemme. Ponzo was an associate of a faction of the New England Mafia that was involved in a bloody power struggle in the late 1980s.

U.S. high court reverses Idaho high court

Lewiston Tribune: Jan. 26- Rebecca Boone/ AP

BOISE - The U.S. Supreme Court said the Idaho Supreme Court erred when it didn't follow the precedent set by an earlier Supreme Court ruling. In a written opinion issued Friday, the nation's highest court reversed the state court's decision on how to award attorney's fees in a civil rights lawsuit. "The Idaho Supreme Court, like any other state or federal court, is bound by this Court's interpretation of federal law," the nation's highest court wrote Friday. "The state court erred in concluding otherwise." The issue arose in a lawsuit brought by a woman named Melene James, who sued the city of Boise after she was mistaken for a burglar and bitten by a police dog. A state district court dismissed her lawsuit, and the Idaho Supreme Court upheld that ruling and ordered her to pay the city of Boise's attorney's fees. When making the award of attorney's fees, the Idaho Supreme Court relied on a federal law but disregarded the U.S. Supreme Court's rulings detailing what the law means. The U.S. Supreme Court ruling found that the state court failed to consider whether the lawsuit was frivolous or not when it awarded attorney's fees. In the opinion, the U.S. Supreme Court said it is responsible for saying what a federal statute means, and other courts have the duty to respect that. "And for good reason," the high court wrote in the opinion. "As Justice Story explained 200 years ago, if state courts were permitted to disregard this Court's rulings on federal law, 'the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states.' "

Your employee handbook could be a liability

Idaho Business Review: Jan. 25- Sandra Kahn

Employee handbooks play an important role in communicating an employer's policies and expectations regarding employee conduct. From a legal perspective, handbooks are helpful as long as they are accurate, up-to-date and do not unintentionally create contractual rights. But handbooks that contain promissory language, legally non-compliant policies or outdated information may result in confusion and potential liability. Disgruntled employees (and their counsel) will be certain to mine any applicable employee policies for lawsuit gold when considering potential claims against employers. While not exhaustive, here are some common mistakes employers should avoid:

Accusations that disclaimers are merely "fine print." Disclaimers that the handbook and its provisions do not create contractual rights are critical to every employee handbook, because they defeat most handbook-based claims. Disclaimers should be included not only in the introduction and at the end of the handbook; they also should be integrated within each policy that might otherwise imply a right to a contractual benefit, such as a right to continued employment that might be assumed from an inflexible progressive discipline policy. Employees should be required to sign an acknowledgement form that confirms their understanding of the disclaimer and the at-will nature of their employment (assuming they are, in fact, employed at-will).

Promissory language. Handbooks should be free of promises that might be perceived as creating contractual rights. Make sure your handbook does not fall prey to this pitfall; review its language with this in mind in regard to the policies themselves and to any welcoming or introductory language. It is possible to draft friendly language that does not conflict with disclaimers of contractual intent; don't allow your handbooks to contain promises that dilute such disclaimers (such as "we look forward to a long and productive relationship" or "we treat all employees fairly").

Inflexible progressive discipline. Most employees are employed at-will, and handbooks should not include any language that implies otherwise. Policies discussing means of discipline should not promise any particular order of events that will be followed before termination of employment, and should eliminate any guarantee of "due process." Include language that allows for employer flexibility and that reserves the right of the employer to take action whether or not any particular disciplinary steps have occurred. Also, beware of policies that list particular infractions but do not leave room for other misconduct that has not been anticipated by the policy. All lists of inappropriate behavior should make clear that the prohibited conduct described is not a comprehensive list of all misconduct that may be cause for discipline or discharge.

Failing to include new developments in the law. Employment law is a dynamic area and changes occur frequently. For example, despite the fact that two types of military family leave were added to the federal Family and Medical Leave Act in 2009 (with additional changes made in 2010), many employers are still using outdated FMLA policies that do not include Qualifying Exigency Leave and Military Caregiver Leave. These important types of leave (which are available in addition to the more well-known reasons that FMLA may be taken) provide that an employee may take up to 12 weeks per year of Qualified Exigency Leave, or up to 26 weeks per year of Military Caregiver Leave (or a combination of the two and leave for other reasons).

Adopting a handbook found on the Internet or cribbed from another employer. One size does not fit all, and using a handbook that hasn't been reviewed for its fit with your company may result in the adoption of policies that do not apply, or the failure to include policies that should apply. It is not uncommon to find very small employers with FMLA policies cribbed from another employer, even though the employer is not covered by the FMLA. This can subject an employer to obligations far beyond what the law requires. Similarly, make sure that your handbook is designed for the states in which you operate. Many states have their own particular protections for employees. Handbooks should include the laws that apply to the employees in each state in which you operate.

Bans on discussion of employee information, personal use of company email, or other policies that violate the NLRA. Section 7 of the National Labor Relations Act gives all employees, unionized or not, the right to engage in protected "concerted activity," which includes the right to discuss wages, hours and other terms and conditions of employment with fellow employees, as well as with non-employees. As a result, any employer's policy (including provisions in confidentiality, proprietary information and social media policies) that an employee would reasonably understand to prohibit such discussions violates the NLRA, including any restriction on discussion of employee information. This principle also has been used by the National Labor Relations Board to invalidate rules prohibiting "disrespectful," "negative," "inappropriate" or "rude" conduct toward the employer or management, because employees have Section 7 rights to criticize or protest their employer's labor policies or treatment of employees. Further, according to a recent decision by the NLRB, employers may not impose a total ban on employee non-work related email communications to other employees during non-work times, unless justified by special circumstances. Even if not enforced, any ban on personal email use should be removed from your handbook.

Policies that lag behind technology. As the use of social media by employees (both for business and personal reasons) increases, so do lawsuits against employers in this area. Make sure your handbook contains a social media policy that anticipates the new ways in which employees communicate with each other and the outside world. A social media policy must provide appropriate guidelines to employees, protect your company's property, and avoid violating the NLRA (as noted above, overly broad confidentiality and non-defamation provisions in social media policies and elsewhere can conflict with the requirements of the NLRA).

Failing to include an FLSA safe harbor provision. Take advantage of the opportunity to include a safe harbor policy in your handbook to reduce liability under the federal Fair Labor Standards Act for improper deductions from wages. To obtain the benefit of such a policy, the policy must conform to the requirements of the FLSA, including but not limited to setting forth the specific instances in which exempt employees may have deductions taken from their wages, providing a manner in which employees may report any instance of improper deductions, and prohibiting retaliation against employees who make a good-faith complaint under the policy.

An outdated or inaccurate EEO statement. Make sure your Equal Employment Opportunity statement includes the correct protected categories for your jurisdiction, and doesn't include any that don't apply.

Given the potential for liability if an employee handbook creates an unintended right to continued employment, or fails to comply with existing law, all employers should review their handbooks regularly. Avoiding the above mistakes will go a long way toward ensuring that your handbook serves its intended purpose and doesn't become a source of employer liability.

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Lewiston man to be arraigned on drug trafficking charges

Lewiston Tribune: Jan. 26- Ralph Bartholdt

A Lewiston man with eight prior felony convictions - and who allegedly sold more than an ounce of methamphetamine to a police informant while on felony probation - will face trial on drug trafficking charges in Lewiston's 2nd District Court. Jay Dee McArthur Sr., 37, is charged with three counts of delivering a controlled substance, one count of possession of a controlled substance, two felony frequent offender enhancements and one count of being a felon in possession of a handgun. If convicted, felony enhancements allow the courts to increase the sentence normally applied to a crime. According to police testimony at McArthur's recent preliminary hearing, McArthur allegedly sold methamphetamine to a police informant three times between June and July. The information prompted a probation officer to call for a search of McArthur's residence at 505 24th St. N., where police allegedly found used hypodermic needles, a digital scale, packaging material and a 9 mm handgun hidden in a mattress compartment in McArthur's bedroom. Lewiston police and Idaho State Police investigators testified that surveillance cameras at McArthur's residence could be monitored from inside his bedroom. During a six-hour period, investigators watched more than 15 people visit the trailer - located near the Idaho State Police Region 2 headquarters - for short visits of no more than a few minutes. Defense attorney Scott Chapman said police had no evidence the bedroom was McArthur's. The trailer is owned by the defendant's mother, and the defendant is not the only inhabitant. McArthur was previously convicted on three counts of forgery, two counts of burglary, theft, possession of a controlled substance and unlawful possession of a firearm, according to court records. The latest charges are part of two separate cases. Bond was set at \$10,000 in each case. McArthur, who was in the Nez Perce County Jail beginning Dec. 7, posted bond and was released over the weekend. His arraignment is scheduled for Feb. 10 in 2nd District Court.

Defense expert: Killings not premeditated

Coeur d'Alene Press: Jan. 27- David Cole

COEUR D'ALENE — A neuropsychologist who completed a forensic mental health assessment on Eldon Samuel III testified Tuesday the teenager was incapable of acting deliberately when he killed his father and younger brother. "Eldon was in a very highly charged emotional state," said Craig W. Beaver, who has a doctorate in clinical psychology and studies the brain and its relationship with behavior. "I don't think he had the capacity to form intent." Beaver, of Boise, reviewed case materials, including the 911 call Samuel made to report the killings and his interrogation with police investigators. He read through mental health records, interviewed family members and studied other items. He also spent hours interviewing and testing Samuel before reaching his conclusions. Samuel, who was 14 at the time of the killings in Coeur d'Alene on March 24, 2014, could not have weighed the consequences of killing his brother, 13-year-old Jonathan, who had autism, or their father, 46-year-old Eldon Samuel Jr. "He was in survival mode," said Beaver, a defense witness. Samuel shot his father, who was often violent in the past and had begun hitting him in the chest and threatening to kick him out of the house. He turned on his brother, shooting him repeatedly. He then hacked away at him with a machete and stabbed him numerous times with a knife. "In my opinion, he lacked the ability to understand what he was doing at that point," Beaver said. Shortly before the killings, Beaver testified, the father had been outside the home shooting a gun and was freaked out by zombies. The father was most violent when he was high on prescription medication. Looking back at the weeks and months leading to the killings, Beaver said, Samuel was an isolated teen who never had nurturing parents and was abused, neglected and constantly depressed. He was bullied in school, when he actually went, and had only one friend, who was back in California, where Samuel and his brother and father moved from to North Idaho. Samuel's impoverished family had moved constantly because of evictions, always living in squalid and unsanitary conditions and often without power or heat, surviving on a single meal per day. A dinner of Hamburger Helper was a special treat. He had rotten teeth and suffered from constant headaches, which were due to chronic lack of sleep, tension and poor diet, Beaver testified. He constantly played violent video games with his father, who rarely worked. If they did leave the house it was to go shoot guns in the woods for target practice. If his brother acted up and got in trouble, his father punished Samuel — who while 11 months older, was his primary caretaker outside school. The windows of their home were always covered up and the back door was nailed shut to keep the zombies out. Samuel was vitamin deficient from lack of sunlight. Beaver said Samuel felt that his life was in danger many times. "He was frightened that his father would shoot him," he said. He also feared his father would abandon him. His drug-addict mother was no longer in the picture, as Tina Samuel stayed in California after the boys and their father moved. Eldon Samuel Jr. had pointed loaded guns at her, Beaver said. Such an upbringing changes the way a person views the world around them, he said. As Beaver reviewed with the jury what he found in his study of the case and during his time spent with Samuel, Public Defender Linda Payne was fighting tears at one point and had to turn away from the jury until she could fully compose herself. On the day of the killings, Beaver continued, the home was loaded with guns, ammunition, knives and other weapons, in preparation for a zombie apocalypse the family had long been preparing for. After the dad started punching him in the chest, Samuel grabbed a handgun. "He knows this is a high-risk time," Beaver said. Samuel shot his father in the abdomen, causing massive blood loss and death. The father crawled through the home from Samuel's bedroom to Jonathan's bedroom. Eldon Samuel Jr. died there, and Samuel fired three rounds into his head. Defense attorneys have argued that was done to prevent the father from turning into a zombie. The brother was hiding under his bed, as usual. Samuel shot him after lifting up the mattress. He then hit him in the head repeatedly with the machete. Early in his testimony, Beaver recalled the skinny and quiet little 14-year-old he first met and interviewed in April 2014, shortly after the gruesome killings. He said Samuel was socially awkward and immature and "flat" emotionally. He said Samuel, during interviews, would often digress into "magical thinking," where zombies were real and Samuel believed he was able to predict the future. He has continued visiting Samuel and watched him grow physically and mature. He said Samuel gets excited these days about clean jail clothes, hot showers, eating three meals a day, and getting recreation time with other kids his age. He also has had major work done on his teeth. He said Samuel has learned to have a sense of humor. "He still has a tendency to drift out of the conversation," he said. Beaver will continue on the witness stand today under cross-examination by prosecutors. The double-murder trial could end this week.

Prosecutor says Chmelik did nothing wrong

Lewiston Tribune: Jan. 29- Kathy Hedberg

GRANGEVILLE - Idaho County Prosecutor Kirk A. MacGregor said County Commission Chairman Jim Chmelik did nothing wrong by voting to set aside money for an organization he formed to fight the federal government over control of public lands. MacGregor said Chmelik was within his rights when he voted, along with the other two commissioners this week, to bank \$5,000 for future payment to the Coalition of Counties - an organization Chmelik formed to challenge federal ownership of public lands in Western states. MacGregor said he has reviewed the law and does not believe there is any conflict of interest. "The commissioners are voted in by the public, and they can contribute money to whatever organization they deem appropriate," MacGregor said. "So that's what I determined, and I don't feel there's a conflict." MacGregor noted a Cottonwood man filed suit against the commissioners three years ago, claiming their donations to the American Lands Council were illegal. That case was reviewed by Magistrate Stephen Calhoun of Nezperce and dismissed. In Calhoun's opinion, MacGregor said, "the public votes these commissioners in by majority vote, and they give them the authority to join whatever are appropriate organizations. ... The law that I saw was pretty broad; they have a lot of discretion on what county funds contribute to these different organizations." Officials from the Idaho Attorney General's Office and the Idaho Association of Counties declined comment when asked whether they thought there was any conflict of interest or ethical breach on Chmelik's part. They deferred, instead, to MacGregor. On Tuesday, the commissioners voted to set aside \$5,000 that had originally been designated for the Utah-based American Lands Council. The commissioners paid \$5,000 in each 2013 and 2014 to support the council's challenge of federal ownership of public lands in Western states. Chmelik explained that because of an oversight, the check was never mailed. Instead, the commissioners voted unanimously to set that money aside for Chmelik's group, the Coalition of Counties. Chmelik defended the commissioners' move, saying it was no different from the county financially supporting groups such as the National Association of Counties or the Idaho Association of Counties. In those instances, he noted, the county pays for his expenses whenever he travels for special meetings. When it comes to the Coalition of Counties, he said, he has taken no money from the counties for any of his expenses. In fact, no money on behalf of the coalition has yet changed hands, he said. Thirteen counties in three states have pledged financial support to the organization, but Chmelik said no money will be collected or action taken until commitments are gathered from 50 counties. "If we get 50 counties on board, we feel that's a good number," Chmelik said Thursday. "It will show action on the part of the Coalition of Counties and hopefully get other counties involved." The goal is to sue the federal government over the lands issue. Although Chmelik has not taken money for the Coalition of Counties, he has set up a separate private fund called the Western Landmark Foundation for people to donate toward his expenses when he travels on behalf of the coalition. The foundation was registered with the Idaho Secretary of State in 2015 and Chmelik is listed as its manager. No financial records are available online and Chmelik declined to say how much money he has collected for the foundation, although he said it is "quite a bit of money." Chmelik set up the foundation, he said, so people who want to donate to his cause can deduct it from their taxes. No paperwork has been filed with the secretary of state's office on behalf of the Coalition of Counties. Chmelik said when the 50 counties get on board, the coalition will then become an auxiliary of the Citizens for Balanced Use in Gateway, Mont., a nonprofit organization designed for the same purposes. "The coalition will utilize the balance sheet of (the Montana group) to carry out these objectives but with our own governing board," Chmelik said. "The goal is still the same. We feel we have legitimate grounds to take the federal government (to court) on the issue of the health, safety and welfare and economic viability because we cannot function as a county," Chmelik said. "We have become so dependent on those dollars from the (Secure Rural Schools) fund," which goes to counties with non-taxable federal lands and is meant to compensate for a decline in timber harvest.

Judge sentences furtive fugitive to three years

Lewiston Tribune: Jan. 29- Ralph Bartholdt

A 29-year-old man who was arrested in the rafters of his mother's Lewiston home after absconding from police will serve a minimum of three years in prison. Dustin D. Pearson of Lewiston was charged with two counts of possession of a controlled substance, a persistent violator enhancement and being a felon in possession of a firearm. Sentencing was set a year ago, but Pearson failed to appear for the hearing, and police later learned he was hiding out at his mother's home on the 1100 block of Richardson Avenue in the Lewiston Orchards. Armed with eight warrants, a police SWAT team responded to the residence in November and found Pearson barricaded in the attic and hiding in the rafters under bales of insulation, according to a police report. At his sentencing hearing Thursday in Lewiston's 2nd District Court, defense attorney Joanna McFarland pleaded with the court for leniency and attributed Pearson's behavior to a drug and alcohol addiction. She said her client wants to break his pattern of addiction, pointing to an incident in the Nez Perce County Jail in which she said Pearson found a way to make a concoction of homemade booze but flushed it down the toilet instead of imbibing. Pearson's mother, Nori L. Pearson, was also arrested in the November bust and charged with one felony count of harboring a felon. The charges against her were dismissed last month. District Judge Jay P. Gaskill said the sentence of three to seven years in prison is based on his concerns for the safety of the community, Dustin Pearson's extensive record, his two prior failed attempts at a prison rehabilitation program - in which the court retained jurisdiction - and the defendant's probation violations. The sentencing also wrapped up adjudication on Pearson's misdemeanor charges of possession of drug paraphernalia, malicious injury to property, domestic battery, driving without privileges and failure to appear for court hearings.

Public Defense Committee Deadlocked on Enforcement

MagicValley.com: Jan. 29

BOISE • A group of lawmakers overhauling Idaho's public defense system is deadlocked on what sort of enforcement mechanism to include in the bill. Five of the 10 legislators on the Public Defense Reform Interim Committee favor a "backstop," meaning the state would take over the public defense system of a county that's not meeting the state's standards, then either withhold sales tax money or sue the county to recoup the cost. The other five members are against the backstop, arguing it could open the state up to more legal liability and that the state already has some leverage because it can withhold public defender grants from counties that aren't meeting standards. After meeting again Thursday night, the third meeting during the session so far, they adjourned, concluding that the draft of the bill in front of them was unworkable because of the "backstop" in it. The committee is expected to meet again next week.

ISU officials took action against football player as soon as drug charges were known

Idaho State Journal: Jan. 29- Debbie Bryce

POCATELLO — Bannock County Deputy Prosecutor JaNiece Price said Thursday that Idaho State University football player JonRyheem Peoples was served notice that two felony counts of delivery of a controlled substance — marijuana — had been filed against him on Monday. Pocatello Police Chief Scott Marchand said the charges did not appear on local police blotters because Peoples was not arrested but was served a summons. Marchand said the university took action against the defensive lineman immediately. Steve Schaack, assistant athletic director for media relations at ISU, said Peoples was suspended indefinitely from the Idaho State football team Monday for "violation of the Idaho State University Department Code of Conduct policy." Price said Peoples is set to make his first appearance in court on Feb. 2. Price said the case was sealed to protect the identity of witnesses. According to court documents, the charges stem from an incident that occurred on May 7, 2015. Peoples is a 2012 graduate of Rigby High School. He redshirted at Brigham Young University in 2013 and transferred to Idaho State in 2014, but he sat out that season. He started six games for the Bengals in 2015 and played in all 11 games, racking up 24 total tackles, two tackles for loss and one sack. In November, ISU head coach Mike Kramer predicted that Peoples would play a big role and be a major contributor along the defensive line in 2016.

Judge rules police had reasonable suspicion for arrest

Lewiston Tribune: Jan. 29- Ralph Bartholdt

Police had reasonable suspicion that a drug deal was in progress when they arrested 32-year-old Nicholette B. Liedkie last summer at the A&B Foods parking lot on Lewiston's Normal Hill, a judge ruled Thursday. In an opinion rendered in 2nd District Court, Judge Jay P. Gaskill said the totality of the circumstances leading up to Liedkie's Aug. 6 arrest gave police justification to conclude the Clarkston woman was allegedly engaged in a drug transfer. "The vehicles were located in a parking lot that (is) known for drug transaction activity, two of the drivers and one of the passengers were known to law enforcement to be involved in previous drug activity transactions and the actions of the individuals were consistent with individuals transferring drugs," Gaskill wrote. The opinion was a response to a motion filed by defense attorney Richard M. Cuddihy, who sought to dismiss charges against his client because he argued her arrest was based on erroneous observations by police. Liedkie has pleaded innocent to two counts of possession of a controlled substance that were amended from a trafficking charge. Prosecutors allege Liedkie was nabbed as part of an investigative effort by police in the grocery store parking lot after observing what appeared to be an exchange between occupants of three vehicles parked in the lot. Two of the cars were parked bumper to bumper for more than 15 minutes as the occupants waited for a third vehicle to arrive. After her arrest, according to court records, police allegedly seized a half-gram of heroin, marijuana and additional drugs in Liedkie's car. Police acted on more than a hunch when they approached Liedkie's vehicle and reported seeing drug paraphernalia on the floor, Gaskill wrote. "Although these observations would not have created probable cause to arrest Liedkie at that point, they were sufficient to create a reasonable suspicion of drug activity which justified further inquiry," he wrote. Liedkie, who is on parole from a previous conviction, is in the Nez Perce County Jail on \$50,000 bond. A jury trial that was set for Monday has been delayed, and a Feb. 11 status conference is scheduled in the case.

Jury takes four hours to convict two in Boise double murder

Idaho Statesman.com: Jan. 29- Kristin Rodine

John C. Douglas, 46, of Reading, Penn., could get life in prison when he is sentenced in April for killing Travontae Calloway and Elliott Bailey in May 2014. So could Anthony Robins Jr. The 35-year-old drug producer from Fremont, Calif., was convicted of hiring the hit man, reportedly because he believed the two Boise men had stolen 30 pounds of marijuana from him. Aiding and abetting both first-degree murders and the attempted murder of Calloway's girlfriend carries the same possible penalty as pulling the trigger, Ada County Deputy Prosecutor Shelley Akamatsu said. After four days of testimony from 20 witnesses, an Ada County jury deliberated just four hours before returning the verdicts Thursday morning, Akamatsu said. They began deliberating Wednesday at 2:45 p.m., stopped for the day at 5 p.m., and then resumed the next morning, she said. Calloway's girlfriend, Jeanette Juraska, told the jury that Douglas, whom she knew as "Big Man," pushed his way into the Orchard Street apartment where she, Bailey and Calloway were celebrating Calloway's 27th birthday. Douglas opened fire, killing both men and wounding Juraska in the arm, according to testimony. Prosecutors said Robins not only arranged the killings, but also bought the murder weapon and drove the getaway van. Akamatsu praised Boise police for "working really hard on the case," including poring over records from numerous cell towers to help pinpoint the defendants' location at key times. A third suspect in the double murder, Samari Winn, is scheduled to stand trial March 28 for leading Douglas to the apartment that night. Charged with aiding and abetting the murders and attempted murder, Winn was the first of the three suspects to be arrested — three days after the May 9, 2014, killings. Douglas was arrested in July 2014 and Robins in January 2015. Robins was defended by Brian McMonagle, a prominent Philadelphia lawyer who also represents Bill Cosby. Sentencing is scheduled for 10 a.m. April 15.

Conviction thrown out over unlawful K-9 search

By RUTH BROWN Idaho Press Tribune January 22, 2016

CALDWELL — The conviction against a Caldwell man sentenced for possession of methamphetamine has been thrown out because appellate judges ruled an officer unlawfully prolonged a traffic stop. According to the Idaho Supreme Court of Appeals judge's opinion, issued Jan. 8, a Caldwell police officer prolonged a traffic stop of John Patrick Linze Jr. to await the arrival of a police K-9, which eventually detected the scent of methamphetamine. In the November 2013 traffic stop, an officer stopped the vehicle because it had a spiderweb-cracked front windshield, which is illegal. After contacting Linze and his passenger, the officer ran the driver's and passenger's identifications and checked whether either had outstanding warrants. In doing so, the officer was told Linze had an extensive drug history and had recently been stopped by other officers, who found drug items in Linze's possession, according to the opinion. The initial stop occurred at 10:19 a.m., and at 10:28 a.m. the officer called for a K-9 unit to sweep the vehicle. While waiting for the K-9 unit, the officer began writing a citation for driving with a cracked windshield. The K-9 officer arrived at 10:38 a.m. — 10 minutes after the call and 19 minutes after the vehicle stop, according to the judge's written opinion. The K-9 officer asked for consent to search the inside of the vehicle, and Linze and his passenger denied consent. The K-9 officer then walked the dog around the exterior of the vehicle. It reportedly took 30 seconds for the dog to positively alert the front of the vehicle, near the engine. After the exterior alert, both officers searched the inside of the vehicle and found a glass pipe with white crystal residue. Linze admitted ownership of the pipe and that he had used the pipe to consume meth. The judge's opinion noted that the Fourth Amendment to the U.S. Constitution prohibits unreasonable searches and seizures. In Linze's case, the officer was accused of prolonging the traffic stop to await the dog's arrival.

Man sentenced to 15 years for gang-related fatal shooting

By Ruth Brown Idaho Press Tribune January 22, 2016

CALDWELL — After extended discussion about Alberto Chavez's ongoing gang involvement, the Nampa man was ordered Thursday to serve 15 years in prison for fatally shooting Kyle "L.B." Jackson on Caldwell Boulevard last summer. Chavez, 20, was sentenced after he pleaded guilty to voluntary manslaughter with an enhancement for committing a felony with the intent to promote criminal gang activity. Pursuant to the plea agreement, the charges against Chavez were amended down from second-degree murder and an enhancement for the use of a deadly weapon in the commission of a felony. District Judge Christopher Nye mandated seven years of Chavez's prison be fixed time. Jackson, 26, died after being shot in the head in August during what police have called a gang-related incident. Police reported he suffered a single gunshot wound, about 3 inches above his right ear. THE ALTERCATION On the day of the shooting, Jackson was reportedly seen by motorists waving a red bandanna before interacting with Chavez, according to the Nampa Police Department. Red is the color affiliated with the Northside gang, and Chavez is believed to be a member of the Southside gang, which affiliates with the color blue. Chavez shot Jackson with a .38-caliber revolver after police said Jackson approached the vehicle Chavez was in and started "verbally attacking" Chavez. GANG INVOLVEMENT Prior to sentencing, Canyon County Deputy Prosecutor Erica Kallin outlined Chavez's extensive history in gang involvement. Kallin brought Caldwell Police officer Ryan Bendawald, of the street crimes unit, who stated Chavez was considered a higher-ranking member of the Southside gang. The colors he was wearing, gang signs he displayed with his hands, tattoos and music were all found on Chavez's social media account, which served as ties to a gang involvement, Bendawald testified. Kallin also presented a YouTube video before the court, which depicted Chavez and other registered gang members in Caldwell. They displayed gang signs and other men rapped about gang life. The music video showed a man face down on the ground near apparent yellow crime tape. Gunshots were also heard in the background of the video. The images in the video were not real crime scenes but were created for the music video. Chavez has admitted to being introduced to the gang at age 13. Kallin said that on the day of the shooting, Jackson was distraught, upset and suicidal. He was wearing red in an area where a Southside gang member lived. Chavez passed Jackson while riding in a vehicle, and when the vehicle stopped, the two men exchanged words. At one point, Jackson said "come and get it" to Chavez, and as Jackson approached, he cut Chavez on the cheek with a 14-inch knife he had. Chavez told police that when Jackson turned away to leave, Chavez extended his arm with gun in hand and "the gun went off," Kallin said. A pre-sentence investigator determined Chavez was a high risk for reoffending. Kallin recommended a sentence of 20 years with 10 years fixed. On the day of the shooting, Chavez was wearing a black shirt, not blue, and the men in the vehicle with him were not documented gang members, defense attorney Chad Gulstrom said about his client. Gulstrom argued Chavez was not out seeking trouble and promoting gang activity. Gulstrom said Chavez did have music indicative of gangs playing in the vehicle but was in no way looking for trouble. He noted that Jackson was the person who initially approached the vehicle Chavez was riding in. "Albert didn't find Kyle, Kyle found Albert," Gulstrom said. There are no prior violent crimes and no felonies on Chavez's record, and he does have a high school diploma, Gulstrom said. When apologizing to Jackson's family in court, Chavez choked back tears, saying his intent was not to harm Jackson nor was it to kill him. Chavez said in court that he was reminded daily of the death he caused when he looks at the scar on his cheek, left behind by Jackson's knife. Chavez, a father of two children, told the judge he regretted he would miss his son's first steps and first words. "Your claim of self-defense ended when (Jackson) turned and walked away," Nye told Chavez prior to announcing his sentence.

Idaho judge dismisses ACLU lawsuit over public defense

By KIMBERLEE KRUESI Idaho Press Tribune January 23, 2016

BOISE, Idaho (AP) — An Idaho judge has dismissed a lawsuit against the state seeking to improve the public defense system in Idaho, saying the case did not merit judicial action because it is not up to the courts to legislate standards. "The court is sympathetic with plaintiff's plight. However, the case invites the court to make speculative assumptions regarding the outcomes of individual cases," 4th District Judge Samuel Hoagland said in his ruling. He said the lawsuit asks him to presume "that all indigent criminal defendants in all counties are receiving the same ineffective assistance of counsel, and then issue blanket orders halting all criminal prosecutions until the issues are resolved." The American Civil Liberties Union of Idaho sued the state in June contending that state officials have known for years that Idaho's public defense system was broken and prevented defendants from receiving adequate legal representation guaranteed by the U.S. Constitution. Though the ACLU has brought similar cases over public defense systems in parts of Michigan, Washington State and other regions, attorneys on the Idaho lawsuit say it's the first such case against an entire state. ACLU-Idaho Executive Director Leo Morales said the organization would appeal the ruling. "We disagree with the court that it has no role in deciding the fate of our constitutional right to adequate representation," Morales said in a prepared statement. "But we agree with the court in one key respect: Idaho's system of public defense is a failure, one that the governor and the Public Defense Commission have the power — and duty — to fix." Hoagland did say that the state's current public defense system is problematic and disagreed with state attorneys who said Gov. C.L. "Butch" Otter and the Idaho Legislature have no responsibility to provide public defense. "The governor has a duty to ensure the Constitution and laws are enforced in Idaho," Hoagland wrote. "The governor also has direct supervisory authority over those responsible to establish standards for a constitutionally sound public defense system." A spokesman for Otter declined to comment. Hoagland issued his decision Wednesday, but the parties involved in the case didn't receive copies of the judgment until Friday. The ACLU reached settlements in New York and Washington after the U.S. Justice Department intervened on the ACLU's behalf and state officials agreed to sweeping reforms.

Telmate tablets create positive environment for inmates Canyon County jail responds well to cost-free technology

By Danielle Wiley Idaho Press Tribune January 24, 2016

CALDWELL — Now that Canyon County jail inmates have been using tablets for over 6 months, jail officials say the new efforts have shown positive results. As first reported by the Idaho Press-Tribune in November, Canyon County entered into an agreement with Telmate to provide tablets to inmates. Critics questioned whether inmates should be given the technology while behind bars. But officials say the program benefits the county in the end. "While it seems like a perk for the inmates, we find when we deploy these tablets inmates behave better," said Craig Diamond, director of marketing for Telmate, the company that supplies Canyon County with inmate communication technology. The tablets are one example Diamond and Canyon County jail employees call "behavior modification tools." "Bored inmates are angry inmates," Diamond said. "These tablets are a privilege for the inmates." Lt. Andy Kiehl said there are 10 tablets available for inmates to share at the Canyon County jail. Currently, there are almost 400 inmates in the Canyon County jail. When an inmate is being punished, he can have his tablet privileges taken away. "It's a babysitter, basically," Kiehl said. The new tablets, which are basic Android devices with customized operating systems installed, are completely cost-free to Canyon County and local taxpayers. Diamond said the money for the tablets comes from inmates and their relatives. To use a tablet, an inmate can either choose a free option, which provides him with tools to research laws and legal matters or he can choose different payment options that charge so much money per minute to use messaging applications, games, videos or more. According to Diamond, inmates have a strict, limited access to jail-approved Internet sites. Family members who wish to communicate through the tablets must also pay per minute. "The majority of the company's profit comes from the inmates and their family," Diamond said. TELMATE Telmate, a for-profit company based in San Francisco, provides communication technology for more than 300 incarceration facilities nationwide. It has been working with the Canyon County jail for a number of years and provide inmates and their visitors with video calling devices that are located in the jail lobby. Last spring, they chose to bring their new tablets to Canyon County, cost free. Kiehl said the money Telmate receives from the tablets goes back into supporting other communication devices. "We have tablets in over 30 jails across the nation," Diamond said. "And so far we have seen nothing but positive feedback from the program." Telmate's main mission, according to Diamond, is to try to reduce the nation's inmate population through positive influences. "We want them to get out and stay out," Diamond said. "We are all people who love to connect through technology. If we give people the proper tools to talk with their families, to see the outside world, we might be able to reform them." Telmate is a technology company that focuses on communication. Diamond says the company's technology helps facilities like Canyon County's run smarter. One example he gave was how inmates can now send digital grievances on the tablets. THE TABLETS Diamond said the tablets are Google Nexus devices with a highly secure, customized operating system installed. The tablets, about seven inches, were sent to the Canyon County jail with heavy duty, rubber cases attached. Kiehl said they are almost indestructible. He dropped one on the ground as an example. "We had one inmate try and break into the casing," Kiehl said. "But they could only get the corner off." Kiehl said even if an inmate finds a way to break the tablet, Telmate will replace it for free. To use the tablet, an inmate goes to where the tablets are stored and where there is a specialized hotspot. These hotspots are the only places where the tablets will connect to Internet. They use their inmate identification number to log in and choose among the free option or two other payment options. Kiehl said inmates are offered a digital law library, spiritual material and a couple of other applications for free. The Canyon County jail inmates already have access to desktop computers and information kiosks in the jail that provide this free material. Inmates pay less than 5 cents a minute to use the tablets for music, games, online messaging to relatives and more. Inmate family members who create an account through Telmate can

instant message inmates through the tablets for 25 cents per text message. Canyon County jail inmates are allowed to use the tablets only during the day after breakfast and daily chores are completed. Inmates in higher security parts of the jail do not have access to the tablets. Diamond said each facility that uses the Telmate tablets can pick and choose what content is provided to the inmates. While some facilities may let inmates access certain websites, such as news sources and online libraries, others can block inmates from the Internet. "With the installed operating system, only allowed websites can be accessed," Diamond said. "It's a very high secure program." So far, no inmate has been able to break through the Telmate programming. Diamond said one interesting result of the tablets being implemented into jail facilities is how it makes the inmates more social. "People came to us with concerns saying the inmates might use the tablets as weapons," he said. "But that's not been the case. Instead, they are becoming more social and it is creating a positive environment." Kiehl said all the Canyon County jail inmates were trained on how to use the tablets, and every message sent to and from inmates is gathered as useful information for the Canyon County Sheriff's Office. "Everything is recorded," Kiehl said. "We can see text messages, and we can use this information to strengthen cases." Telmate said if the program keeps becoming more popular, more tablets may be sent to the jail in the near future.

Coeur d'Alene teen to be tried as adult in slaying

Morning News January 22, 2016

COEUR D'ALENE (AP) — Eldon Samuel Jr. was a violent man who was hooked on prescription drugs, owned numerous weapons and was preparing his sons for a zombie apocalypse, his estranged wife Tina Samuel told the court Wednesday. The couple's 16-year-old son, Eldon Samuel III, is being tried as an adult for killing his father and his autistic brother, reported the "Coeur d'Alene Press." He was 14 at the time of the March 2014 killings. Tina Samuel described her husband as controlling and moody. She lives in California and said Eldon Samuel Jr. moved to Idaho with their two boys when the couple separated. She said younger Eldon Samuel listened to and learned from his father, who had prepared to load a trailer with guns and other weapons, water, and canned food and take the family high into the mountains in the event of a zombie apocalypse. "He was trained to be ready when the zombies came," said Tina Samuel, who said the father taught his sons to use knives and guns and cut off the heads of rattlesnakes for fun "Shoot them in the head or chop off their head. That's the only way to kill a zombie." Eldon Samuel III is accused of shooting his father and shooting, stabbing and hacking at 13-year-old Jonathan Samuel repeatedly with a machete. The teen called 911 that night and officers found him standing out front in bloody clothes. Officers said the teenager told them he feared his father, who beat him, would kill him. He told police his dad was high on painkillers, fired a gun outside the house and started talking about zombies, according to court records. Samuel said his dad also started hitting and pushing him. He told police he shot his father and then went after his autistic brother, who was hiding under a bed. Samuel blamed Jonathan's disability for the family's problems, according to the police transcript. Tina Samuel said her husband's demeanor changed after he became addicted to prescription drugs after some work injuries. "It got so much worse over the years," she said. Before the couple broke up for good, they moved 20 times. Tina Samuel said they were evicted "every place we lived at" because Eldon Samuel Jr. didn't pay the rent. She said her teenage son often missed school and was bullied when he did go. Teachers from Lakes Magnet Middle School testified that the missed days hurt his development and grades, but that Samuel was quiet, polite and tried to learn when he showed up. A pediatrician said the teenage Samuel reported that his dad physically abused him and that he lived on one meal per day. A dentist who treated Samuel after his arrest said his teeth were also in horrible condition from chronic neglect.

Suit to improve public defender system dismissed

Morning News January 23, 2016

BOISE (AP) — An Idaho judge has dismissed a lawsuit against the state seeking to improve the public defense system in Idaho, saying the case did not merit judicial action because it is not up to the courts to legislate standards. "The court is sympathetic with plaintiff's plight. However, the case invites the court to make speculative assumptions regarding the outcomes of individual cases," 4th District Judge Samuel Hoagland said in his ruling. He said the lawsuit asks him to presume "that all indigent criminal defendants in all counties are receiving the same ineffective assistance of counsel, and then issue blanket orders halting all criminal prosecutions until the issues are resolved." The American Civil Liberties Union of Idaho sued the state in June contending that state officials have known for years that Idaho's public defense system was broken and prevented defendants from receiving adequate legal representation guaranteed by the U.S. Constitution. Though the ACLU has brought similar cases over public defense systems in parts of Michigan, Washington state and other regions, attorneys on the Idaho lawsuit say it's the first such case against an entire state. ACLU-Idaho Executive Director Leo Morales said the organization would appeal the ruling. "We disagree with the court that it has no role in deciding the fate of our constitutional right to adequate representation," Morales said in a prepared statement. "But we agree with the court in one key respect: Idaho's system of public defense is a failure, one that the governor and the Public Defense Commission have the power — and duty — to fix." Hoagland did say that the state's current public defense system is problematic and disagreed with state attorneys who said Gov. C.L. "Butch" Otter and the Idaho Legislature have no responsibility to provide public defense. "The governor has a duty to ensure the Constitution and laws are enforced in Idaho," Hoagland wrote. "The governor also has direct supervisory authority over those responsible to establish standards for a constitutionally sound public defense system." A spokesman for Otter declined to comment. Hoagland issued his decision Wednesday, but the parties involved in the case didn't receive copies of the judgment until Friday. The ACLU reached settlements in New York and Washington after the U.S. Justice Department intervened on the ACLU's behalf and state officials agreed to sweeping reforms. Hoagland primarily took issue with the ACLU naming four plaintiffs — who say they've spent months in jail without speaking to their court-appointed attorneys or that their cases weren't

properly reviewed — as proof the entire system needed to be revamped. The lawsuit requested the state judge to order Idaho's elected officials to implement and fund a better system, but Hoagland said that violated the separation of powers between the branches of government. Idaho's public defender system has been at focus recently, since a report from the National Legal Aid and Defender Association found in 2010 that indigent defendants facing criminal trials weren't getting adequate representation. The problems included a lack of communication between court-appointed lawyers and their clients, poor or nonexistent legal investigations, deficient funding and a lack of oversight. An interim legislative committee has been working on finalizing legislation to better the public defense system that will be introduced this year no matter the outcome of the lawsuit. Idaho is one of just three states that don't provide funding for public defense. Instead, Idaho's 44 counties are on the hook to provide public defenders. Many choose to contract private attorneys to do the work.

ACLU appeals dismissal of public defense lawsuit

Eye on Boise January 25, 2016

The ACLU of Idaho has filed a notice of appeal in its lawsuit charging that Idaho's public defense system is constitutionally deficient, after a judge last Friday dismissed the case. "Today we took swift action to defend Idahoans' constitutional rights," said Idaho ACLU Executive Director Leo Morales, in a statement. "We filed a notice to appeal the dismissal of our public defense lawsuit, and we will continue to vigorously pursue this case. Our courts clearly have an obligation to enforce the constitution — especially in this case, because it is in our courts where, day after day, Idahoans continue to be criminally prosecuted without a constitutional justice system in place."

Our View: Time for state courts to take a broader view of their mandate

By Lee Rozen, Daily News January 27, 2016

In October 2014 we said Idaho's public defender system needs to be run by and financed through state government because the quality of justice shouldn't be different in the courts of Boise's Ada County than the court of Nezperce's Lewis County. The American Civil Liberties Union filed suit in an Idaho trial court in June against the state and others on behalf of several indigent defendants who were being represented by public defenders. It argued they weren't getting an adequate defense because of: "the widespread use of fixed-fee contracts; extraordinarily high attorney caseloads and workloads; lack of consistent, effective, and confidential communication with indigent clients; inadequate, and often nonexistent, investigation of cases; lack of structural safeguards to protect the independence of defenders; lack of adequate representation of children in juvenile and criminal court; lack of sufficient supervision; lack of performance-based standards; lack of ongoing training and professional development; and lack of any meaningful funding from the State." Last week, it was announced that 4th District Judge Samuel Hoagland had dismissed the suit because it sought action against the entire state but only offered evidence against a handful of counties. Hoagland concurred there are problems with Idaho's public defense system, reported the Idaho Statesman, but said that while Gov. C.L. "Butch" Otter and the Idaho Legislature have influence over the counties and can help them fix public defense inadequacies, the courts don't have the authority to compel either party to solve the individual problems. That's really the heart of the issue. A constitutional mandate that those accused get adequate representation is being left up to each individual county to define, interpret and, most importantly, fund. The suit is asking the courts to determine that this, instead, should be a state-level responsibility. The ACLU is appealing Hoagland's decision. Higher level courts might have a better understanding that the ACLU's case is less about individual cases and more about the lack of an adequate systemic response by the state to a mandate of the U.S. Constitution.

Judge rules against Fremont gravel pit

By LUKE RAMSETH Post Register January 27, 2016

A recent legal decision likely spells the end of a controversial gravel pit proposed for construction in Fremont County. In a decision filed Jan. 15, District Judge Greg Moeller said the Fremont County Commission should not have rezoned 80 acres of agricultural land just west of Teton city limits to allow for construction of a gravel mining operation. "We're happy with the decision, and we're looking forward to putting the gravel pit behind us," Teton Mayor Phil Sutherin said Wednesday. When county commissioners approved the pit project to move forward early last year, the city of Teton filed for judicial review. The proposed project was in the city's so-called "area of impact" — an urban growth boundary that extends outside city limits into the county, city officials said. The city and county had agreed to certain types of land use in the area of impact in 2005, and changes — such as allowing a gravel pit — would've required a process of approval from both government entities. But the city had never been willing to sign off on the idea. Moeller's decision sends the gravel pit rezoning issue back to the County Commission, where this time it will be required to "follow the law" relating to land use in the city's area of impact, Moeller said in an email. Sutherin said he hoped Moeller's decision would mean the end of a controversy that has spanned several years and become a hot topic of discussion around the town of 700. Many residents, especially those on the western side of town, were strongly opposed to a large gravel pit operation so close to their homes, Sutherin said. The pit would've also prevented any future expansion in that direction, he said. "We're hoping it's the end," Sutherin said of the gravel pit, adding that he wanted to improve cooperation between the city and county government going forward. Fremont County Commissioner Jordon Stoddard declined to comment on the decision, referring the Post Register to Deputy Prosecutor Brock Bischoff, who handled the case for the county. Bischoff could not be reached Wednesday. Floyd Gardner, the landowner who applied for the pit, and his attorney, also did not return calls seeking comment. In the decision, much of it highly critical of the county's actions, Moeller wrote that instead of directly addressing the zoning

and land use issues raised by the city of Teton in the suit, the county had instead “completely recast this case into a series of issues dealing with the constitutionality and validity of the underlying laws...” The judge wrote that the county’s own attorney, Bischoff, had conceded that the gravel pit applications had been “approved based on ‘deficient’ findings of facts and conclusions of law.” “It is concerning to the court that the county apparently knew its legal positions were incorrect, but still elected to disregard the legal advice from its attorney and approve the applications,” Moeller wrote. Because Fremont County had disregarded “well-established statutes and ordinances” regarding the pit, Moeller ordered the county to pay the city’s legal fees and other costs relating to the case. He said the penalty would “discourage similar attempts to disregard the law at public expense.” Gardner applied with the city of Teton for a zoning change to allow for the gravel pit — to be operated by Idaho Falls-based HK Contractors — in both 2008 and 2012. Both times the application was denied. In June 2014, Gardner tried again, this time with the county, court documents said. There, the gravel pit proposal was successful. The zoning change was approved by the county’s Planning and Zoning Board and later the County Commission.

Murder suspect has pending federal probation violation allegation

By Ruth Brown Idaho Press Tribune January 28, 2016

CALDWELL — A woman suspected of killing her roommate in Nampa in October likely will be taken into federal custody due to a pending a federal probation violation she has for a 2013 conviction of felony assault on a federal officer. Kayla Teton, 24, is accused of beating 52-year-old Linda Westmoreland to death with a metal pipe and was recently declared unfit for trial due to mental illness. The death occurred at Port of Hope, an alcohol and substance abuse treatment center in Nampa. In December, Magistrate Judge Brian Lee ordered the Idaho Department of Correction take her into its custody, stating Teton was too dangerous to be held at a state hospital for treatment. IDOC declined to accept her after the pending federal allegation. Lee said that if Teton is taken into federal custody, officials have agreed to provide her with needed treatment. Teton has been declared unfit for Canyon County trial because it was determined she would not be able to assist in her own defense and could not properly understand legal proceedings at this time. However, that does not mean that Teton’s first-degree murder charge has been dismissed. Teton is in custody at the Canyon County jail. The 2013 charge stems from an incident when Teton admitted to striking a Fort Hall corrections officer in the face with her hand. According to the federal plea agreement, on Jan. 6, 2013, Teton was arrested on the Fort Hall Indian Reservation for “being an intoxicated person” and taken to the Fort Hall Correctional Center. While at the jail, corrections officers reportedly attempted to get Teton to change into jail-issued clothing. According to the court document, Teton refused and slapped a Fort Hall corrections officer. A federal judge sentenced Teton to 6 months in prison and more than two years of supervised release for the assault. She was out of prison and on supervised release at the time of the alleged homicide. Teton is set to appear in federal court at 10 a.m. Feb. 1, and her next county appearance is at 11 a.m. Feb. 10. On Tuesday, U.S. Magistrate Judge Mikel Williams granted the Idaho U.S. Attorney’s request to take Teton into the U.S. Marshals’ custody.