

MISDEMEANOR SENTENCING COMMITTEE MEETING

May 16, 2018
12:00 p.m. - 4:00 p.m.
Boise, Idaho

Minutes

Members:

Chair Judge James Cawthon
Judge Michelle Evans
Judge Jennifer Haemmerle
Judge Jason Walker
Judge Paul Laggis
Judge James Stow
Judge Barry Wood
Jason Spillman
Christina Iverson
Scott Ronan

Next Meeting:

September 2018

Feb 2019

May 2019

Welcome and Introductions

Chair Judge Cawthon welcomed the Committee members and introduced Judge Jason Walker. He reviewed the agenda items and discussed the importance of collaboration and thanked all of the members for the continued dedication. Christina Iverson reviewed the materials for the meeting. Minutes from the November 13, 2017 were reviewed.

Motion: Judge Laggis moved to accept the minutes as written. Judge Evans seconded. Motion carried

Strategic Planning

Christina Iverson provided an overview of strategic planning that focused on vision, mission, and goal setting. The committee members reviewed the current draft mission statement which reads: "The Misdemeanor Sentencing Committee will provide a community collaboration framework for informed decision making, focusing on Pretrial, Sentencing, and Probation". The Committee members suggested revisions to mission statement.

"The Misdemeanor Sentencing Committee will provide a framework for informed and innovative decision making, focusing on Pretrial, Sentencing, and Probation".

The Committee members will continue to review and refine specific goals supporting the vision and mission statement at the next meeting.

Legislation

Judge Wood provided an update of legislative action actions to include HB530 and SB1300.

He provided a historical perspective of priority of payments as it pertains to HB530. Previously, upon conviction, criminal defendants were assessed several different fees, fines, and sometimes restitution. Defendants were rarely able to initially pay the total amount due, and thus, they would submit partial payments to the clerk pursuant to an agreement with the court. These partial payments were distributed per the various statutes governing each fee. However, many of the fee statutes set competing priorities for the order of

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disbursement. As a result, the Supreme Court has been required to engage in statutory construction and enter an order establishing a priority.

HB530 provides for organizing all twenty four (24) possible fees into a single statute and will require that Odyssey is re-programmed to accomplish the order of distribution. It will be effective July 1, 2018 and communication to stakeholders is forthcoming.

Judge Wood provided a review of SB1300, Pretrial Legislation, on both a broad and narrow scope. SB1300, sought to add another new section, 31-3201J, entitled "Pretrial Supervision Fee" to allow the court, as opposed to a county, to impose a fee for those on a supervised pretrial release program. Pursuant to this new section, the court could require a released defendant to pay a fee of no more than two dollars and fifty cents (\$2.50) per day, plus the actual cost of electronic monitoring and/or drug and alcohol testing if such monitoring and/or testing is also a condition of release. The fees would be distributed to the counties to be used exclusively to cover the costs of the pretrial services provided by the pretrial services agency. The bill did not pass and counties will be responsible for collecting fees regarding pretrial supervision and monitoring as it is not in statute for the courts to authorize this fee.

Judge Wood discussed a proposal from the Office of Performance Evaluation to review data regarding the collection of fees, fines, and waivers. He stressed the importance of informing Sara Thomas, Administrative Director of the Courts, of any data requests that are received.

Judgement of Conviction-Cost of Supervision

Judge Wood discussed the differences in Judgement of Convictions (JOC) as it pertains to language ordering Cost of Supervision (COS) on those sentenced to misdemeanor probation. There are variations in the language of the JOC in that some jurisdictions leave setting the fee to the misdemeanor probation officer. As this is a term and condition of probation, the judge sets the fees. Christina Iverson indicated that if a probation officer, after a financial assessment of the probationer, feels that the standard set fee is unrealistic due to circumstances, and then the officer can file a request for modification to the court.

The Committee members discussed the variations in sentencing practices. Jason Spillman indicated that jurisdictions are ordering probationers to Unsupervised and Records Check probation. He asked that these terms are reviewed and who is doing the monitoring as it pertains to imposition of COS. The Committee members decided to form a workgroup to review the JOC and provide recommendations to the committee.

Action: Judge Walker, Judge Laggis, Judge Wood, and Jason Spillman will review the current template of the JOC by the Forms Committee, review and provide language recommendations for COS to the Committee, and review the term Unsupervised and Records Check Probation. Christina Iverson will provide the workgroup with the forms to include the Ada County process.

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Evidence Based Sentencing

Judge Cawthon reviewed the Evidence Based Sentencing project as it relates to misdemeanor sentencing practices throughout Idaho. The Committee discussed the broad applications of developing a survey to the magistrate judges, what information would be gathered, and the desired outcome of the survey results.

The survey results will provide the scope of the project and specific sentencing practices throughout the state. The survey questions will focus on specific areas that will include:

- Legal representation at sentencing
- What information is provided at sentencing to include screening tools and assessments and what is the mechanism that the information is received
- Identification of misdemeanor probation supervision strategies
- Knowledge of alternative programs within the community
- Knowledge of treatment provider practices and quality of treatment programs
- Identification of sentencing strengths both within an urban and rural setting
- Identification of education offered at judicial conferences that has changed perspectives and/or practices in sentencing

Action: *Christina Iverson will draft survey questions by mid-June and provide to the Committee members for feedback. Judge Cawthon and Christina Iverson will draft the timeframe for the project.*

Restitution/Civil Judgement

Judge Haemmerle asked the Committee members to discuss restitution as it pertains to civil judgements on whether to have a separate order and what practices different jurisdictions are doing in this regard. Judge Wood indicated that Imelda Ramirez in the Court Services for Families and Children/Justice Services Division could provide assistance.

Action: *Judge Haemmerle will provide her questions to Judge Wood and Imelda Ramirez who can assist with the development of answers to provide through Court Assistance for the public.*

Judicial Education

Judge Cawthon discussed recent judicial education and asked the Committee members for feedback on further requests that would benefit magistrate judges. The Committee members indicated the following would be beneficial:

- Restitution Order Training
- Change Management
- Ordering Cost of Supervision

Action: *Christina Iverson will provide this request to Judicial Education.*

Next Steps

Judge Cawthon reviewed the action items from the meeting and discussed next meeting dates and locations. The Committee members indicated that having the meeting after conferences worked well.

Motion: *Judge Laggis moved to adjourn. Judge Walker seconded. Motion carried.*

Adjourn at 4:10 p.m.