

**Statewide Drug Court and Mental Health Court
Coordinating Committee
June 18, 2010
Idaho Supreme Court**

MINUTES

Next Meeting: October 29, 2010 Proposed

Members Present

**Chair, Chief Justice Daniel Eismann
Patti Tobias
Kerry Hong
Brent Reinke
Judge Ron Wilper
Judge Thomas Ryan
Marreen Baker Burton
Linda Polhemus
Burt Butler
Roger Bourne
Kerry Hong
Patti Tobias
Molly Huskey
Sharon Harrigfeld**

**Brent Reinke
Richard Armstrong
Eric Olson
Norma Jaeger
Members Present by Conference Call**

**Martha Tanner
Judge Larry Duff
George Southworth
Judge G. Richard Bevan
Judge Dunn
Nick Arambarri
Suzanne Johnson**

Guests and Staff Present

**Ryan Brown
Scott Ronan
Kathleen Allyn
Judge Lynne Krogh**

**Brenda Lawrence
Kevin Kempf
Larry Reiner
Bethany Gadzinski
Frank Riley**

Chair, Chief Justice Eismann convened the meeting and members and guests present and on the conference call introduced themselves.

National Media Award presented to Judge Ron Wilper

Chair Chief Justice Eismann announced that Judge Ron Wilper was honored at the recent National Association of Drug Court Professionals Annual Training Conference with a *national media award* for his arrangement of filming of William Petersen, of CSI fame, in a drug court public service announcement tied to the national All Rise media campaign. An award will be presented to KBOI for their provision of all production work on this campaign at the Ada County Drug Court graduation to be held on July 28, 2010. It is possible that West Huddleston will attend to present the award. The PSA was shown in Boise and also in the magic valley with some custom shots of the District 5 court room and Judge Mick Hodges.

Prospective Veterans Court

Chair Chief Justice Eismann also reported on an exploratory meeting recently held with a variety of stakeholders with an interest in implementing a veterans' court in Ada County. Representatives from the Veterans Administration, State Office of Veterans Affairs, Idaho National Guard, Ada County Sheriffs Office jail programs, and 4th Judicial District discussed needs, numbers of veterans in the criminal justice system, (9% of jail Ada County inmates are veterans) as well as potential resources to meet the needs. In addition to a veterans' court, the Veterans Administration agreed to put together some resource information for judges statewide to be aware of when dealing with veterans. It is anticipated that there may be several sources of grant funds available in the months ahead.

Patti Tobias suggested that this planning would be a good topic for the Criminal Justice Commission in one of their fall meetings. Brent Reinke agreed to work this into their agenda.

Minutes of October 30, 2009 Meeting

Marreen Burton moved and Judge Ron Wilper seconded approval of the minutes of the meeting on October 10, 2008, as published. Motion Carried

Adult Drug Court Guidelines for Effectiveness and Evaluation

Judge Ron Wilper, Chair of the guidelines review and revision workgroup, reported on their work. The group has met twice. The first meeting included technical assistance from Dr. Michael Finnigan of Northwest Professional Consortium in Portland, Oregon. This research group has conducted over 100 drug court outcome and cost-benefit evaluations. This research has shown which aspects of the ten key components are most correlated with effectiveness. The workgroup will be integrating this research into its work in revising the guidelines. In addition to possible revisions, since the research evidence is now much more solid about effectiveness practices, the committee will be recommending which of the guidelines should be made *Standards*. Judge Wilper reminded the committee that the coordinating committee has statutory responsibilities for establishing both *guidelines* and *standards*. It is expected that the guidelines and standards will be reported to the Coordinating Committee at the fall meeting for adoption. Norma Jaeger reported that a technical assistance request has been made to the Center for Court Innovation to provide for additional time from NPC Research to assist in development of the guidelines and a fidelity instrument which will be administered through a peer review process. When developed, this instrument and peer review process will potentially be of national application.

Kevin Kempf asked if the guidelines will look at developing probation standards for drug courts and expressed his complete support for development of consistent standards and willingness to work on this project. Probation supervision standards are a part of the guidelines.

Norma Jaeger also reported that a task identified by the workgroup is to explore some development of specialized defense counsel guidelines, in cooperation with the Bar Commission, to clarify the responsibilities of defense counsel in the operation of problem-solving courts. This work would be something of a parallel to the modification in the Canon of Judicial Ethics which was enacted a year ago to deal with the issues of ex parte communications. When completed this development also is likely to be of national significance.

Drug Testing Recommendations

Norma Jaeger presented the need to reduce state expenditures for drug testing. This past year the state paid out \$587,000 for drug testing. The Madison County Misdemeanor Probation Department in the 7th Judicial District has operated a drug testing lab for nearly 8 years. Burt Butler and Ryan Brown presented information on their experience with the lab. This lab has shortened turnaround time for test results, reduced costs of the drug testing, and generated revenue, in excess of operation costs, for the county. There are vendors who will provide the laboratory equipment, training and technical support, where these costs are financed through the purchase of the supplies and chemicals used in the testing process. With the potential of a statewide contract to purchase these materials even lower unit costs could be achieved through the volume generated. Patti Tobias and Martha Tanner both commented on the importance of quality assurance and development of statewide standards for operation. **Patti Tobias moved and Judge Wilper seconded that the Coordinating Committee establish a workgroup to (1) explore strategies and opportunities for expanding upon the regional drug testing laboratory approach piloted in District 7, (2) develop guidelines and standards for operation as well as (3) identify volume-based cost reduction opportunities through a unified system for handling all publicly funded drug testing, and encouraging participation of the Office of Drug Policy.** Kerry Hong, Linda Polhemus, Marreen Burton, and Sharon Burke agreed to participate in the workgroup.

Sliding Fee Scale Implementation

In response to significant budget reductions drug court participants have been added to the state system requirements to have income assessed and pay for a portion of their treatment equal to the rest of the publicly funded system. Scott Ronan reported on a survey of drug court coordinators in the state to investigate any problems with the implementation. He reported that most coordinators reported no major problems as most participants qualify for 100% state coverage. The most significant problem has resulted from the determination that persons have insurance that should be billed for their treatment. Kathleen Allyn indicated that she had just become aware of this problem. She recommended that a meeting be held to explore solutions, including the possibility of delaying full implementation of the insurance requirement, to enable drug court providers to become able to bill insurance companies and grandfathering existing drug court participants into the fee collection system. She emphasized that the entire system is moving to billing insurance resources and that all resources must be tapped to offset budget reductions. Another related policy problem is that adult children who have to move in with parents as they get into treatment and into drug court have the entire household income counted in determining their ability to pay. The same policy applies to an older adult who moves in with children. Considerable discussion concluded that this is a problematic and a potentially counterproductive policy and Kathleen agreed to look further into this policy as well. Judge Lynne Krogh suggested that one approach might be recognizing that the provision of room and board to a participant constitutes income and that an agreed upon value of board and room could be considered as a part of the participant's income level for the fee assessment. Marreen Burton and Kipp Dana were suggested to attend this meeting with DHW and BPA, along with Norma Jaeger. Others may express interest and be added to the meeting by contacting Norma.

Molly Huskey asked who had access to the form for fee assessment once filled out by a defendant. Bethany answered that the form goes in the person's treatment file and is covered by the confidentiality protections of both HIPAA and 42 CFR Part 2.

Status off Substance Use Disorder Treatment Funding for FY2010 and report on Interagency Committee on Substance Abuse Prevention and Treatment (ICSA)

Sharon Burke reported on the challenges to the substance use disorder treatment system, beginning with the 5 million reduction in FY2009, carried forward to FY2010, holdbacks in FY2010 and problems of over-expenditure of treatment funds in FY2010, resulting in a cash shortage issue at the end of FY2010. These budget issues have caused very real problems for the treatment providers in the state. ICSA met on June 16th and set budget allocations for treatment for FY2011. Based on the current allocation plan there will be no initial reduction in drug court funding in FY2011. There is a projected expenditure reduction in other categories of public treatment funds. The budget will need to be monitored closely and if these anticipated reductions in spending do not materialize, there may need to be cuts later in the year. Transportation will be reinstated in the coming year but residential treatment will not be available to the felony population, including drug court participants. In addition local accountability groups are being organized who can directly oversee treatment including client progress, response to treatment, and specialized service needs, as well as closely monitoring the expenditure of treatment funds to achieve cost effective treatment and coordination with community resources. Accountability groups will be patterned after the drug court team and its ability to assure appropriate treatment within a budget. Sharon reported that it has been reported by the Governor's Office that there are not likely to be further budget holdbacks in FY2011 but neither will there be enhancements in FY2012

Impact of FY2011 budget reductions for partner agencies and Planned IDOC Programs

Kathleen Allyn reported on cuts to mental health services, since the status of the substance abuse budget had already been reported. Children's Mental Health will begin the year with a reduction of \$500,000 resulting in staff cuts of 13 positions, and Adult Mental Health will see a reduction of \$1,025,000 resulting in 35 positions lost. The department anticipates being able to continue to meet statutory services including 19 2524 and 20 511(a) as well as designated examinations.

Sharon Harrigfeld reported that the most significant financial impact on juvenile services in FY2011 will not be in the IDJC budget but rather in an anticipated 1.6 million loss of tobacco revenues to counties for juvenile services. While the Department of Juvenile Corrections has been told not to expect any enhancements they are looking for ways to increase funds to the Juvenile Corrections Act for county services.

Brent Reinke provided a handout explaining the new IDOC sentencing options a 90 day substance abuse treatment program opening in July 2010 and a 270 day retained jurisdiction therapeutic community program beginning in September, 2010. He recognized the support of Scott Ronan in the planning for new alternative placement programs. He also indicated that the first priority for funds is "furlough relief". The department has had 80,000 furlough hours this year. This is not sustainable. The second priority is to address cuts in community resources. Kevin Kempf reported on the need for aftercare to back up the CAPP program. He indicated that there are no plans for changes in overall positions in community corrections this year but that there may be reallocations from areas of less need to areas of higher need. The use of drug courts as a continuing care option for offenders returning from these retained jurisdiction programs was briefly discussed as a version of "reentry court" which is not available to returning parolees because of lack of court jurisdiction. Judge Ryan commented that it would be very helpful to the District Judges to receive a recommendation from IDOC when offenders are returning as to the appropriate follow-up placement – drug court or probation.

Status of New Drug Courts

Judge Ryan reported on the plans for the Canyon county DUI Court which will be starting as a largely self funding project with an estimated 10 participants. County Commissioners have expressed willingness to provide financial support for a coordinator. An Operations Application is nearly ready for submission to the Coordinating Committee.

Larry Reiner reported on the plans for the Elmore County DUI and Felony Drug court. A start date of October 1 is projected. County Commissioners are supportive and a budget request to Elmore County is being considered. Funds from the 4th District Drug Court allocation are planned for support of a part-time coordinator.

Norma Jaeger reported on the Shoshone County Misdemeanor / Felony Drug Court. They have submitted their Operations Application and a team training is planned for July 12, 2010. They would like to start operations as soon as approved.

Update on Pilot Juvenile Mental Health Court – District 7

Eric Olson reported on the operations of the Juvenile Mental Health Court Pilot Project. The court began in March 2007, has a capacity of 30 participants and is generally close to full capacity. The graduation rate for FY2010 has been 71% and there have been 49 juveniles served since inception with 19 graduates. Only 3 of the participants have been committed to IDJC. YLSI scores at the start of the program average 26 and at graduation the average score is 5. About 50% of the participants have Medicaid coverage. The heart of the program is the Wraparound intervention, an evidence based program which is strengths based and family centered. Funding has come from IDJC community Mental Health Funds which the Department of Health and Welfare Children's Mental Health Program has provided family and individual therapy and psychosocial rehabilitation. The program gets great feedback from families and there has been strong collaboration with a wide variety of community resources to meet needs of youth and families. The rough estimate of program cost for one youth is \$14,940 while the average cost of a youth committed to IDJC is \$99,000. Children's Mental Health has seen a prediction in out of home placements of 11 in one year to zero. Some seem reasonably attributable to the Juvenile Mental Health Court. Idaho Public Television is interested in doing a segment on the program in August. DHW has been instrumental in overseeing fidelity to the wraparound model.

FY2011 Budget Allocations and Policy Recommendations

Norma Jaeger presented the recommended allocations for FY2011. She outlined considerations for long term strategic development of the drug court system, toward which the FY2011 allocation recommendations are one step. Overall the highest priority for state level court funds should be to assure the most effective coordination of drug courts. It is being recommended to combine the categories of coordination and staffing into a single coordination allocation, initially the same as last year's level, and request a plan from each district on how those dollars would be used. This plan would be due by July 31, 2010.

The second recommendation is to phase out state level support for drug testing and shift the cost of drug testing to participants and to local drug court funds. Burt Butler suggested that it would be easier to get county support for drug testing if it could be a cost share such as \$250 state and \$250 local. Marreen Burton explained that it has become very much more costly to test participants since there has been a shift from meth to a variety of prescription opiates. These are much more costly to test for. Judge Lynn Krogh also expressed the problems of over-prescribing of a variety of drugs which complicate both testing and holding participants accountable.

The third recommendation is to phase out state support for operations completely for the coming fiscal year.

Gaining county support may be achieved through clearly identifying and communicating to the counties the savings to county taxpayers resulting from savings from drug courts, particularly in jail costs. Ada County did a study showing that the jail days for drug court participants was an average of 38.9 which the comparison group had jail days of 104 each. At \$54 per day that is a substantial savings.

Burt Butler moved and Brent Reinke seconded that the drug testing allocation from the state be reduced to \$400 for FY2011 and that the subsequent years' phase down amount be evaluated in each future year. Motion carried.

Judge Ryan moved and Burt Butler seconded that the committee adopt the long term goal of shifting the position of coordinator to a state position and in the short term complete work on standard job descriptions and a compensation study. Motion carried.

In discussion of the motion, Judge Duff expressed concern for maintaining local control and local working relationships to assure that there is appropriate responsiveness and that the team continues to function well. Other committee members expressed view that there could be many ways to organize the direction and oversight of these positions. It was also expressed that one structure may not fit in each district so that maintaining flexibility to respond to local differences would be important. It was supported that having a common job description and consistent compensation standards would be very worthwhile.

Burt Butler moved and Patti Tobias seconded approval of the recommendation to eliminate state support of operations with the understanding that a hardship exception could be requested.

Judge Ryan and others pointed out that in shifting toward more support coming from counties, the state's budget developments need to be better aligned with county budget processes. Thus, plans for next fiscal year's budget should begin with the fall meeting not the spring meeting. It was also cautioned that sensitivity to the shift to county funding is important and that we need to be prepared to clearly demonstrate and articulate the benefits to the counties accruing from the operations of problem-solving courts.

Regional Drug Court and Mental Health Court Institutes

Norma Jaeger reported on the plans for the three regional drug court and mental health court institutes to be held in November in Pocatello, January in Boise and April in North Idaho. The institutes will all be keynoted by Pete Early, *Pulitzer Prize* winning reporter and father of a mentally ill son who had involvement with the criminal justice system. She solicited input from the committee on worthwhile topics. It was pointed out that since the institutes were more locally focused, it was an opportunity to reach out to county commissioners to participate.

Chief Justice's Criminal Justice Mental Health Initiative

Norma Jaeger reported on the Chief Justice's Criminal Justice Mental Health Initiative. A federal grant has been submitted to the Bureau of Justice Assistance to continue the work of the initiative. In addition, District 5 is replicating the mental health diversion pilot project and the work previously reported on Veteran's Court also is a recommendation of the Chief Justice's Initiative.

Evaluations in Process

Scott Ronan reported on progress on two current evaluations: a mental health process evaluation, which is in the analysis and report drafting process and a juvenile drug court outcome evaluation, which has been delayed due to data collection issues. Both are expected to continue moving forward in FY2011.

Meeting Adjourned at 2:40 pm Next Meeting October 29, 2010 (Proposed)

Action Items

Veterans' Court planning

Revisions to Adult Drug Court Guidelines for Effectiveness and Evaluation

Incorporate Standards for probation supervision in adult drug court guidelines

Incorporate Guidelines for in-house laboratories for drug testing

Establish a workgroup to explore statewide contract for drug testing laboratories

Work with DHW/BPA to address problems associated with insurance requirement for drug court participants

Work with DHW to consider revisions to the "household income" provision in the sliding fee schedule

Develop standardized job description for levels of drug court coordinator and complete a compensation study

Obtain district plans for the use of coordination funds allocated for FY2011

Preliminary Agenda for October 29, 2010

Update on Veterans' Court Development

Adopt Revised Statewide Guidelines and Standards for Drug Court Effectiveness and Evaluation

Statewide Drug Testing laboratory Development

Sliding Fee Schedule and Insurance Provisions for Drug Court Participants

FY2012 Budget Allocation Recommendations

Chief Justice's Criminal Justice Mental Health Initiative

Evaluations of Juvenile Drug Courts and Mental Health Courts