

**Idaho Statewide Drug Court and Mental Health Court
Coordinating Committee**

**Thursday, November 17, 2011
8:30 a.m. – 2:30 p.m.
Idaho Supreme Court
Lincoln Room
Boise, Idaho**

MINUTES

Next Meeting: April 26, 2012

<u>Members Present</u>	
Chair, Justice Daniel Eismann Vice-Chair, Judge Ron Wilper Matt English Dennis Hardziej Dustin Smith Martha Ekhoﬀ Hon. Larry R. Duff Linda Wright Hon. Richard Bevan Mark Mimura Judge Thomas Ryan Roger Bourne Hon. Mike Reardon Maureen Burton Hon. Scott Wayman Hon. Darren B. Simpson Burt Butler	Martha Tanner John Tanner Patti Tobias Hon. John Stegner Norma Jaeger Eric Olson Hon. Darren Simpson Brent Reinke Denise Chuckovich Hon. Stephen Dunn
<u>Staff Present</u> Scott Ronan Jeff Morris Kerry Hong Hon. Jack Varin	<u>Guests</u> Scott Bandy (Ada County Prosecutor) Frank Riley (for Sharon Harrigfeld) Ross Edmunds (Idaho Dept. H&W) Justin Curtis (for Molly Huskey) Marilyn Kesner (for Rita Wickham) David Birch (for Brent Reinke - IDOC) Jared Bingham (District 7 Treatment)

The Coordinating Committee acknowledged Norma Jaeger's impending retirement and provided several mementos commemorating her work with Idaho Problem-solving Courts.

The meeting was officially convened at 8:45 a.m. by Justice Daniel Eismann, Chairman, and members and guests present at the meeting introduced themselves.

Approval of Minutes of the May 26, 2011 Meeting

Minutes of the previous meeting on May 26, 2011 were approved.

Chief Justice Burdick was introduced to the Committee and he expressed appreciation to the committee for their work and indicated that he would simply be visiting for a part of the meeting.

Guidelines and Standards for Effectiveness and Evaluation for Adult Drug Courts

Judge Wilper opened discussion on the Adult Drug Court *Guidelines and Standards for Effectiveness and Evaluation* (pg. 11 of the meeting materials) document to be voted on and approved at this meeting. Before asking approval of the revised standards and guidelines there were some questions that had been asked of the committee, which Judge Wilper read for those in attendance to provide comments. The first question was in reference to a remedy for non-compliance with the proposed standards. More specifically, what will be the answer or response to non-compliance by a court? The item in question is located on page 14 of the materials. The response was that there are certain functions of the court that are so fundamental to operation, that failure to comply with them should result in a provisional termination notice. Should a court receive a provisional termination notice, they would have an opportunity to apply for a continuation of operations. A sub-question was asked in regard to whom would initiate action against a court found to be out of compliance. The sense of the discussion was that this committee would be the one to impose final penalties for non-compliance.

Judge Steger noted that to have standards without enforcement would be useless. He said that the remedies available for courts continuing to operate out of compliance were sensible and that it is good that the judge has an opportunity to address the rules. He also said that it is important to know who it is that determines when a court is out of compliance.

Norma Jaeger responded to these concerns. She said that courts would, of course, need some time to come into compliance; therefore there is an initial period of perhaps a six to nine months to implement the new guidelines and then a one year window within which a court that is out of compliance can submit and implement a plan of improvement. Not all courts are at the same stage in compliance, but it is not believed that there are very many courts currently operating substantially out of compliance. A question was asked by Judge Simpson about how this would be policed and how courts would be able to ensure that the prosecuting and defense attorneys are consistently participating. Problems arise in the area of defense attorney contracts and privately retained attorneys. Norma Jaeger said that when the court is a post-sentence model, there is sometimes less participation by counsel. However, the research does not distinguish between different types of courts, such that only certain types of courts should require attorneys to

participate. Norma noted that peer review and state-level staff monitoring of quality assurance will be elements of assessing compliance. In terms of the intention of sanctions, the goal is not to shut down courts, rather, the point is to improve them. While creativity in operations is to be encouraged, there are certain baseline procedures that need to be present.

Judge Wilper noted that the guidelines and standards document is a living document and that the committee should be responsible for changing and updating it. A periodic review of the standards and guidelines was also suggested so as to reaffirm that they are being upheld.

Maureen Burton spoke about some concerns she had with wording of some of the standards. She asked that the word regularly be inserted in 3.6 as well as in 4.2. These changes were agreed to by the committee. She also had some concerns about the amount of data that needed to be entered into the I-STARS system (5.1). Scott Ronan addressed this concern and said that the drug testing element required for the data entry is highly important to the Supreme Court's ability to evaluate court outcomes. He said that perhaps it would be possible to work with and improve the technology used for the data entry, rather than lose those data elements. Another item of concern was the number of meetings that drug court teams were required to hold to address administrative items, as delineated in 6.4, 6.5, and 6.6 of the guidelines and standards. Many of those present suggested combining some meetings but agreed that the meetings needed to take place.

Judge Stegner also asked that the committee make consistent the LSI score requirement throughout the guidelines and standards document, which the committee agreed to do.

Judge Wayman moved and Judge Duff seconded the motion to approve the proposed guidelines and standards with the noted changes. The motion carried unanimously with the understanding that the changes identified during the Coordinating Committee meeting would be included.

Veterans Court Update

Operation of the Ada County Veterans Court was presented to the committee with a request to approve the operation of this court. Norma reported that their operations manual has been reviewed and found to be in compliance and the court is ready for participants. The court will use existing Ada County allocated drug court slots.

Judge Reardon moved and Judge Wilper seconded the motion to approve operation of the Ada County Veterans Court. The motion carried.

Judge Ryan of Canyon County presented a Letter of Intent to establish a Veterans Court. The letter of intent is included in the meeting materials on page 28. He noted that the court should be able to begin taking participants as early as mid-December, once other materials have been finalized.

Mark Mimura moved and Judge Stegner seconded the motion to approve the Letter of Intent to support continued planning for a Veterans Court in Canyon County. The motion carried.

Matt English presented a Letter of Intent to establish a new Veterans Court in Bannock County. The letter is included in the meeting materials on page 29. It was reported that they are receiving help and support from the Veterans Administration in Salt Lake City, which has worked with the Salt Lake Veterans Court for some time. In addition, there has been an outpouring of support from many involved parties in the community as well. They anticipate the start date to be in either February or March and expect to have approximately 6 participants.

Judge Reardon moved and Linda Wright seconded the motion to approve the Letter of Intent to support continued planning for a Veterans Court in Bannock County. The motion carried.

Judge Stegner presented a Letter of Intent to establish a Mental Health Court in Latah County. He noted that several team members have received training at the national level and currently participate in the Latah County Drug Court. The court would have a capacity of ten participants and would accept both adult misdemeanants and felons with serious and persistent mental illness. The meeting materials also include three letters of support for the Latah County Mental Health Court in Moscow, including letters from the Department of Health and Welfare, Latah County Probation Services, and the Idaho Department of Correction. The Department of Correction provided support within their current resources but pointed out that should their staff be reduced they could have difficulty providing the necessary support. These letters are located on pages 31, 32, and 33, respectively, of the meeting materials. The Letter of Intent also included a funding request of \$5,500 for operations and drug testing.

Judge Bevan moved and Judge Wilper seconded the motion to approve the Letter of Intent to support continued planning for a Mental Health Court in Latah County. The motion carried.

Sustainability and Institutionalization Subcommittee Report

Norma Jaeger reported on the conclusions and recommendations made by the subcommittee appointed to review current funding, various court related costs, and future strategies for financial support of drug courts. She said that problem solving courts should use a combination of state and local funding sources.

Drug testing is a major cost element in the problem-solving courts. It is important for the courts to maintain appropriate testing frequency. It is recommended that all partners in the problem-solving court system assist with collection of samples. Additionally, it may be beneficial for the overall criminal justice community to work together to develop state or regional laboratory testing facilities.

Burt Butler pointed out that the Coordinating Committee has oversight of the largest pool of drug testing dollars that could be combined with funds of other criminal justice entities. Using these funds in coordination to fund a state lab could be very effective. The problem is assuring adequate turnaround for testing results and the Idaho State Laboratory is currently very slow.

There is some evidence that suggests there would be cost savings from drug testing if the tests did not have to be done by an outside lab. This money could be used for other functions of the

problem-solving courts. Many of those in attendance agreed that the 48 hour turnaround window is essential to the necessary immediacy of certain functions. The committee was asked if there was interest in establishing a work group to continue to pursue this idea. Several members of the committee agreed. It was also agreed that there needs to be a written contract at the end of such an endeavor. To assure that an initial low-cost testing “bid” would not go up once other lab resources were no longer available. Work group volunteers included Burt Butler, Jamie Shropshire, Mark Mimura, Matt English, Marreen Burton, Marilyn Kesner, and Lisa Martin.

Several questions arose in reference to the proposed idea of combining the funding for treatment and testing into one fund and paying for testing from treatment funds. There was some concern that the combination of drug-testing and treatment funds would result in less funding for treatment, since there is an obvious need for additional drug testing dollars. There was also concern that this could cause significant accounting issues when attempting to keep all this billing straight. The response to these concerns was that it would be necessary to first look into the potential cost saving coming from a statewide volume purchasing contract, as well as examining the current treatment model for possible flexibility. Eventually perhaps the overall need for resources could be taken to the legislature.

Another item taken up by the subcommittee was that of the changing the treatment reimbursement process from a fee-for-service system to a “slot rate” system. The slot rate system would allocate 1/12 of the annual funds each court receives and disperse it monthly to a selected one or two treatment providers, contingent with something like a required 85% slot utilization rate. Perhaps programs exhibiting participants with high LSI risk/need could receive 105% of an annual allotment. If the utilization consistently fell below the required level they would be reallocated. There was some concern that this would be damaging to small courts, which, upon graduation for example, could potentially lose 3 participants of 6, and fall to 50% capacity; far below the required utilization rate. In response to this, it was made clear that the intention is to find a more frugal way to administer funding and potentially save money. Circumstances such as a small court with a graduation would be taken into account and most likely would not result in reduced treatment funding.

Patti Tobias moved and Judge Simpson seconded the motion that the workgroup continue this planning and report back to the Committee in the Spring. The motion carried.

Development of Core Services for Mental Health Courts

Ross Edmunds, on behalf of the Department of Health and Welfare, reported on his work with the Behavioral Health Program Managers and Mental Health Court Coordinators to define the core services to be available to mental health court participants. His documents are located on page 36 of the meeting materials. The document titled, *Mental Health Court Treatment Service Array (Draft)*, outlines the services identified, as well as the availability of those services. The first category of services is a list of those which would be available to all mental health court participants. Moving down the left-hand column, the second list is of those services that would be available to participants based on their individualized treatment plan. The services near the bottom of that same left-hand column are those identified to be optional services. Ross Edmunds stated that the department will continue to deliver Assertive Community Treatment services. It was acknowledged that mental health services and substance abuse treatment should be

integrated in both systems and that co-occurring disorders should be the expectation not the exception. Ross said that once the list is completed it will be reviewed by the Mental Health Court Coordinators, and a gap analysis will need to take place. He added that this list is currently focused on what the Department of Health and Welfare is responsible for, but will eventually need to include the responsibilities of all those involved. He also pointed out that along with the planned transition of Medicaid to managed care, the year 2014 will bring Medicaid coverage to more individuals, as it will include all those at 133% of the poverty level, via the recently passed health care law.

A question was asked about whether this document would be considered to be principles, similar to the standards and guidelines. Ross Edmunds responded that they could be at some point, but they certainly need to be principles first.

No action was taken and Ross Edmunds, with others, will continue planning toward an identified set of Core Services for Mental Health Courts as well as responsibilities of all the mental health court partners.

Evaluations in Progress

Jeff Morris and Scott Ronan reported in the mental health court process evaluation and the juvenile drug court outcome evaluation, respectively. Jeff Morris reviewed with the committee the original intention of the online process survey which all the mental health court coordinators had previously completed, with the assistance of their mental health court teams. The full report resulting from the evaluation is included in the meeting materials on page 75. He also reviewed the level of adherence to the guidelines by the mental health courts as well as recommendations for increased adherence. A short summary of the recommendations is located on page 110 of the meeting materials (page 36 of the report). Among the recommendations for increased adherence, the report suggests that greater involvement of the entire mental health court team, including active participation by the prosecutor and defense attorneys, is necessary to the overall success of the mental health court. Furthermore, efforts should be made to make greater use of the LSI-R results when developing the treatment plan.

Scott Ronan said the juvenile drug court evaluation is proceeding as scheduled.

There were no action items for this portion of the meeting.

FY 2012 Substance Use Disorder Community Based Treatment System Report

Scott Ronan reported on the management of substance use disorder treatment. His materials can be found starting on page 112. Expenditures for FY2012 are on target for the district allocations. He said he would continue to have up to date expenditure reports and that there would be a detailed fiscal analysis at the end of the quarter.

Statewide Problem-Solving Court Institute 2012

Justice Eismann asked if there was any input from the group in terms of dates for a Drug and Mental Health Court Institute or of topics or presenters that would be beneficial to the event. He asked that input be directed to Judge McLaughlin.

Juvenile Drug Court Enhancement Project

Matt English, the District 6 Problem-solving Court Coordinator reported on a recent technical assistance session held with Randy Muck, who is formerly of the National Substance Abuse and Mental Health Services Administration, and who updated the committee on the current evidence-based practices and treatment models for juveniles. Matt English utilized portions of a PowerPoint presentation for his report. He said that after meeting with Randy Muck, they found that there are several things that Idaho is doing right in terms of juvenile drug court. These things include: the use of the GAIN Assessment, personnel who can do advanced data analysis, and periodic reassessment for juveniles. He said that there are also several other things that can be done to continue to improve. These things include: increased family involvement, developmental appropriateness of programming, ability to engage clients and retain staff, utilizing continuing care and relapse prevention, and gender/culturally appropriate programming. Matt English also said that new technology-based approaches have shown very positive responses from juveniles. Podcasting, texting to establish positive connections to participants, and social networking have shown 90-95% satisfaction and utilization rates.

The meeting adjourned at 3:00 p.m.

Action Items:

- **Make recommended changes to Guidelines and Standards and disseminate to the field and to stakeholders**
- **Continue work of the Sustainability and Institutionalization Committee in the areas of drug testing, substance abuse treatment reimbursement processes and enhanced coordination and report back to the Coordinating Committee in the spring**
- **Develop Core Services for Mental Health Courts and conduct gap analysis in each district**