

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

**Thursday, May 16, 2013
8:30 a.m. – 3:00 p.m.
Idaho Supreme Court
Lincoln Room
Boise, Idaho**

MINUTES

<p><u>Members Present</u></p>	
<p>Chair, Justice Daniel Eismann Vice-Chair, Hon. Ron Wilper Hon. Scott Wayman Dennis Hardziej Linda Wright Hon. Richard Bevan Mark Mimura Hon. Bradley S. Ford Hon. George Southworth Roger Bourne Marreen Burton Hon. Darren B. Simpson Burt Butler Roger Christensen Lisa Martin Debra Alsaker-Burke Hon. Penny Stanford (by phone) Hon. Stephen Dunn</p>	<p>Hon. Jack Varin Jared Bingham Martha Tanner John Tanner Patti Tobias Hon. John Stegner Director Brent Reinke Norma Jaeger Kerry Hong Director Sharon Harrigfeld Eric Olsen Dustin Smith</p> <p><u>(Pending) Members Present</u> Hon. Bradley Ford Marilyn Kesner E. Clayne Tyler JoAnn Martinez</p>
<p><u>Staff Present</u> Scott Ronan Rob Owens Ryan Porter Jim Arnold Roland Gammill Andrea Patterson</p>	<p><u>Guests Present</u> Henry Atencio Hon. Rick Carnaroli Sara Bartles Ronya Hemenway Tara Wright Ross Edmunds Ron Christian Erik Letinen (for Sarah Thomas)</p>

Next Meeting - Monday September 9, 2013

The meeting was convened at 8:30 a.m. by Justice Daniel Eismann, Chairman, and members and guests present at the meeting introduced themselves.

Approval of Minutes of the November 15, 2012 meeting
Judge Dunn moved and Judge Wilper seconded the approval of the minutes of the November 15, 2012 meeting, with correction to attendance. Motion carried.

Personnel Changes

Patti Tobias reported on personnel actions. With the stabilization of budget resources due to the improving economy some personnel shifts have been made and some long-vacant positions have been filled. Judge John Varin, who has been serving for a year and a half as the Interim Director of Problem Solving Courts and Community Sentencing Alternatives will return to his previous work as a Senior Judge leading efforts in juvenile justice, including juvenile drug courts and child protection. Judge Varin was recognized for maintaining the strong work of problem solving courts and ongoing work in sentencing alternatives. Kerry Hong has been selected as the Director of the Division of Community and Family Justice Services. He will lead the court's work in the "next generation" of problem-solving courts, family court services, guardianship and conservatorship and a new effort in development of pre-trial services. Scott Ronan has been promoted to the position of Senior Manager of Problem-solving Courts and Community Sentencing Alternatives. He will be the central point of contact for activities related to drug, mental health and veterans courts. Norma Jaeger will continue to work in the division as the Emeritus Statewide Drug Court Coordinator carrying out special projects, grant management, and training activities. Ryan Porter will continue to provide leadership, guidance and overall quality assurance in efforts involving behavioral health throughout the division in problem-solving courts, family court services and sentencing alternatives and will lead the Court's involvement in the WITS data system. In addition, the work of the Division will be further strengthened by Debra Alsaker-Burke who will lead the work in child protection, including child protection or family reunification drug court expansion, and Rob Owens from the Research and Planning Division who will carry out evaluation efforts.

District 5 Problem-Solving Court Developments

Justice Eismann reported on the work of the Executive Committee, led by Representative Rich Wills, leading to a Memorandum of Understanding that will achieve full prosecutor involvement in the problem solving courts in Twin Falls County and resolve prior areas of contention about operations and compliance with drug court Standards and Guidelines.

Legislative Update

Patti Tobias reported on Legislative action from the recent Legislative Session. The primary action of interest to the problem-solving court area was the passage of legislation making the temporary surcharge permanent and stabilizing funding for drug courts, mental health courts, family court services and the court technology fund. In addition an interim committee was established to be led by Senator Patti Ann Lodge and Representative Rich Wills to examine the criminal justice system in Idaho with consultation from the Council of State Governments Justice

Center and the National Center for State Courts. A focus will be upon what efficiencies and front end investments might be made to improve cost effectiveness and justice reinvestment opportunities. The Drug Court and Mental Health Court Coordinating Committee will be contacted for input along with the Felony Sentencing Committee. Justice Eismann also reported on legislation that allows for an affidavit to be filed in a court matter without being notarized. In addition, the Legislature granted \$275,900 to enable the courts to fund a treatment provider rate increase without the result of cutting treatment capacity.

Veterans Court Update

Judges George Southworth and Rich Carnaroli and Coordinator Marreen Burton reported on their respective Veterans Courts. Judge Southworth introduced the Court Coordinator, a community volunteer and three of his participants, who then shared their experiences, before and since participating in the court, with the committee. The Canyon County Veterans Court is getting great service from the Veterans Administration and the VA Center. Judge Carnaroli reported that they currently have 6 funded slots and 9 participants. They have 7 current applicants. They have applied for a SAMHSA grant to expand by an additional 18 slots. The VA has been a great partner for their court as well as the VA Center. Three participants have received residential treatment through the VA. Their court lost three applicants awaiting entry to the court: one through suicide by cop, one through a drinking driving motorcycle crash and one through a drug overdose. They had a World War II applicant aged 92 years of age but the battery charges were dropped. A 501 c3 organization, Friends of Veterans Court is in process. There is a need to be able to pay for batterers' treatment for domestic violence. The Ada County Veterans Court has had 2 graduates and graduations are set for June and August. They have hired a mentor coordinator through a SAMHSA grant received last year. They currently have 18 participants and the grant will allow them to expand the number. They will begin accepting non-combat veterans. All reported that the media support for the courts has been strong. Justice Eismann reported that there is a desire to approach the legislature in 2014 for money to expand these courts.

Utilization and Expenditures

Roland Gammill reported on status of FY2013 expenditure information provided to the committee in handout. He highlighted the \$510,518 collected in participant fees which are becoming a critical element of the budget and a source for drug testing expenses. Marreen Burton indicated that these fees are depended upon for many expenses in addition to drug testing. Lisa Martin indicated that they experience some difficulty in collecting fees from some child protection drug court participants, especially those who are not facing concurrent criminal charges. Debra Alsaker-Burke indicated that there is a need to examine our policies and expectations to strengthen fee collection in the child protection drug courts. Judge Stegner questioned how we got from the expectation of state funding for drug testing at \$400 per participant to \$250 per participant. Patti recommended that since we have the drug testing covered at the \$400 rate in FY2013 and also again in FY2014 to hold the discussion to the later agenda item for planning for FY2015. Justice Eismann responded that with the limited funding for drug courts and pressure to expand capacity we need to look to a variety of funding sources to cover the necessary costs. Perhaps we can obtain more county or more participant funding to help with drug testing costs. There is certainly no intention to reduce the amount of testing that is to be done.

Action: Scott Ronan and Debra Alsaker-Burke will review if child protection drug court participants are subject to the [IC 31-3201E] provision for the collection of participant fees. They will report back at the September DCMHCCC meeting any recommendations

Residential Treatment

Ryan Porter reported on the development of admission criteria and a protocol for requesting residential treatment and indicated that we provided residential treatment. Thirty individuals were approved for residential treatment for approximately \$140,000. This number included four adolescents. We have closed new residential treatment admissions from a state level fund for the present time but will look at being able to reopen a similar fund in the coming year. Burt Butler recommended that at a future meeting the committee should have a philosophical discussion of the cost benefit of providing residential treatment when the research frequently indicates that residential treatment outcomes are no better than intensive outpatient treatment. He recommended considering creative opportunities to approximate the residential treatment modality through using such things as safe and sober housing or jail or detention in conjunction with intensive outpatient treatment. Scott indicated that courts can use their allocated treatment funds for residential treatment subject to the significant limitations of the available dollars.

Action: Ryan Porter will report at the September DCMHCCC meeting on any potential residential funds for FY 2014 and will provide an analysis of residential treatment as an evidence based practice

FY14 Budget and Proposed Allocations

Roland Gammill initiated the discussion of the proposed budget and allocations for FY2014. Kerry Hong referred committee members to handout materials.

The first recommendation to the committee was to work toward the establishment of a District-wide Coordinator in each Judicial District who would be an employee rather than an contractor, to provide overall coordination of the problem-solving courts in that district. A draft job description was provided for committee review to capture the range of responsibilities assigned to such a position. Andrea Patterson reported to the Committee that moving to an employee based system provides alignment with the classification and compensation study (Hay Study) that was carried out and offers greater opportunity for recruitment, provision of benefits, supervision and assuring the application of the courts Code of Conduct. After considerable discussion it was concluded that having District-wide Coordinators employed as state employees would be the best plan and, in fact, possibly having all problem-solving court coordinators employed as state employees might be the desired future direction.

Linda Wright moved and Judge Dunn seconded that the Drug Court and Mental Health Court Coordinating Committee (DCMHCCC) consider the Administrative Conference's recommendation and support the submission of district coordination plans to the Supreme Court for each district identifying the following for consideration of funding:

- A. Determination of district wide coordination to be state employees;**
- B. Identification of whether there is a coordinator who currently provides district-wide services or if a selection process will need to be designed;**
- C. Funds needed within available allocation (state and local) and additional funds required;**

D. Implementation plan with timelines.

Motion carried.

Judge Stegner moved and Mark Mimura seconded that work be done to analyze the desirability and feasibility of having all problem-solving court coordinators be state employees with a report back to the Coordinating Committee at the September meeting. Motion carried.

Action: Scott Ronan will reconvene the Sustainability & Institutionalization Subcommittee to develop recommendations for the Committee to support the development of long term vision and staffing plans for Idaho's problem solving courts.

Judge Bevan moved and Judge Wilper seconded that the following in one-time "bridge" funding from FY 2013 unallocated coordination funds for FY 2014 for the funding of a District 2 Veterans Treatment Court Coordinator at \$12,000 and a District 4 Ada County Misdemeanor/DUI Drug Court Coordinator at \$21,444 for a total of \$33,444. Motion carried.

Dennis Hardziej moved and Jared Bingham seconded that the committee recommend an increase of 5% in the substance use disorder treatment provider rate to \$4,142 per slot for 1,181 slots including an increase to D7 for 10 slots for the Child Protection Drug Court (CPDC) and D2 for 9 slots for the CPDC and Adult Drug Courts. 1,181 slots at \$4,142 per slot totals \$4,891,702 for treatment for FY2014. Motion carried.

Ross Edmunds has confirmed the availability of funds appropriated to the DHW of approximately \$700,000 for treatment for misdemeanor offenders. The Department has agreed to allocate this funding for problem-solving court participants and for individuals in domestic violence courts although these funds cannot be used for batterer training.

Patti Tobias moved and Judge Bevan seconded that the Committee approve, in concept, the use of Department of Health and Welfare (DHW)-Misdemeanant funds starting July 1st, 2013, or sooner, for the purposes of funding treatment for misdemeanor drug court offenders, contingent on the final amount approved by DHW. Courts will be surveyed about ability and willingness to serve misdemeanants using these funds and will prioritize additional funds to those courts utilizing their district drug court slots at capacity. We currently have requests from the 5th and 7th Judicial Districts to utilize a portion of this funding. Motion carried.

Judge Wilper moved and Brent Reinke seconded that the committee recommend pursuing domestic violence intervention as a recovery support service for inclusion in the rate matrix of billable treatment services. Results would be reported back to the Committee at the Fall DCMHCCC meeting. Motion carried.

Judge Varin emphasized that we want to particularly review the evidence base for the treatment that we would ultimately approve paying for and report back on evidence-based interventions.

Scott Ronan reported on a proposal to expand the payment method pilot project which was carried out in Districts 4 and 7, with Coordinating Committee support, in the past year. Both Jared Bingham and Marreen Burton reported positive experience with the payment system. It was pointed out that the system requires a different level of ongoing interaction with the treatment provider to assure that the necessary treatment is being provided. Kerry Hong indicated that it is likely that a template for an agreement between drug court and provider as to the treatment expectations will be developed. Ryan Porter, the Behavioral Health Quality Assurance leader will be integrally involved in the development of the quality monitoring process for treatment. Sharon Harrigfeld and Patti Tobias both pointed out the necessity of spelling out how residential treatment will be provided under a flat rate reimbursement system. Kerry Hong indicated that since WITS collects treatment data on an encounter basis we will be able to have reports as to what our financial outlay would have been if we were using a fee for services system. That will enable us to monitor the relative service delivery under both reimbursement systems. Judge Wilper emphasized the importance of assuring that the courts continue to take in the appropriate high risk individuals and Patti Tobias suggested that the committee review admissions criteria and variations across the state.

Judge Dunn moved and Judge Wilper seconded that problem-solving courts implement a complete transition from a fee for service reimbursement system to a monthly flat rate payment system, where the Supreme Court will pay each designated treatment provider a monthly rate for serving a required number of drug court participants, subject to minimum utilization monitoring, beginning July 1, 2013 and fully effective no later than October 1, 2013. In addition the problem-solving courts will implement WITS for all problem solving courts and providers for participant intake, service coordination and documentation, fiscal management, and other participant data entry, no later than October 1, 2013.

Motion carried.

Action: Ryan Porter will update the DCMHCCC at the September 2013 meeting on progress made towards the full implementation of WITS for problem-solving courts.

DHW Update

Ross Edmunds reported that the contract for the Medicaid managed behavioral health care has been awarded and signed with Optum-Idaho. It will be very important to meet with this managed care organization as soon as possible to begin dialogue on meeting the behavioral health needs of the court and criminal and juvenile justice population. The effective date for startup has been moved to September 1, 2013. The managed care model does not line up well with the drug court model and we need to think through how we might need to supplement what they will cover in the way of services. But certainly, we want to use Medicaid funding as much as possible. Because of the way Medicaid was funded for substance use disorder services there is about \$1,000,000 originally allocated for Medicaid match that has not been reallocated as of yet.

Martha Tanner indicated that the number one concern from NAMI is that Optum will simply let seriously and persistently mentally ill persons drop out of care since discontinuing treatment is often what they want to do.

With respect to misdemeanor services, Ross reported that data on clients served indicates that \$1,434,000 was paid out from DHW for services to non-ATR misdemeanor clients in 2013 so even though we were unable to work out all details to initiate services for the court supervised misdemeanants, misdemeanor clients were provided treatment last year.

IDOC Update

Brent Reinke indicated that the department would end the year with a projected \$500,000 shortage in treatment funds and thanked the court for assisting with this problem up to \$100,000. He also reported that the Department had at least reduced the increase in inmates in the system with the number under department management only being up by 72 in FY2013 compared to being an increase of 432 in FY2012. The Department is taking on performing a GAIN Core assessment on all pre-sentence offenders. In Ada County this is a challenge because 70% of the pre-sentence offenders are in jail and it is difficult to access clients in jail to do the assessment. However the Ada County Jail staff has been very supportive to try to facilitate the process.

IDJC Update

Sharon Harrigfeld reported that the department did not have legislation this year, but the Juvenile Defense statute passed. During the coming year there will be important planning carried out by the department to clarify the responsibility of both the Department of Health and Welfare and Department of Education for youth in IDJC custody, to assure continuity of education. There are also issues related to the responsibility of the Juvenile Probation Officer when a youth previously on probation is in Department custody. The Office of Performance Evaluation will be doing a study of what has been reported (erroneously) as a major increase in juvenile incarceration rates in Idaho. The Department sees this as an opportunity to identify what more should be done to meet the needs of Idaho youth committed to the Department. Sharon commended the excellent work of Sharon Burke and Joni Ward in managing the substance use disorder services for juveniles.

New Courts Update

The Nez Perce County Veterans Court presented a Letter of Intent and Operations Application for establishing a Veterans Court in Nez Perce County but serving the entire District to the extent possible. Judge Griffin has agreed to preside over the court. An MOU is included, signed by all operational players. It was pointed out that the application does not include the sign-off by central office IDOC staff. Henry Atencio reported that they were supportive and that the District office believes they have the needed staff resources to support the court. The VA has agreed to provide needed treatment as well as drug testing for the first year of the court.

Patti Tobias moved and Roger Christensen seconded approval of the Letter of Intent for the Nez Perce County (District 2) Veterans Court. Motion carried.

Judge Wilper moved and Sharon Harrigfeld seconded that the Executive Committee of the Coordinating Committee be delegated authority to consider approval of the operations application for the Nez Perce (District 2) Veterans Court.
Motion carried.

Two other courts are in the earliest stages of consideration, Mini-Cassia DUI Court and Bear Lake Drug Court but no formal Letters of Intent are being submitted at this time.

Brent Reinke indicated that the support from IDOC for problem-solving courts really does depend on finding a way to bring on probation officers in some or all of the existing vacant but unfunded positions. Patti Tobias and Justice Eismann both replied that the court has gone on record in support of additional probation officers and will do so again.

FY 2015 Preliminary Budget Concepts

Kerry Hong referred the committee to the handout materials which identifies the many issues to be brought to the committee at the September meeting for consideration in developing the FY2015 budget recommendations to the Administrative Conference. These issues include:

1) Veterans Treatment Courts

We calculate a statewide unmet need for veteran treatment courts of 111 slots. This projection assumes that as more combat veterans return and as more returning veterans begin to experience negative effects from post-traumatic stress disorder, the numbers of referrals will increase and additionally as the successful outcomes of a separate calendar, particularly for combat veterans, becomes more visible referrals will continue to increase even among older veterans whose PTSD issues have been untreated for many years. To that end, we will explore potential FY 2015 funding for treatment, testing and coordination for veteran treatment courts.

2) Child Protection Drug Courts

In FY 2014, we will seek additional feedback on the need to expand Child Protection Drug Courts statewide, to address the needs for coordination, testing, and treatment.

3) Treatment and Testing

The DCMHCCC understands the importance drug testing plays to hold offenders accountable and as an essential element of treatment. In FY 2014, we anticipate developing strategies for achieving full funding from multiple resources and potential FY 2015 requesting of additional funds to meet the full treatment needs of offenders in problem solving courts.

4) Coordination

With the combination of treatment and testing, dedicated court funds otherwise utilized for testing would be freed up for the further enhancing of local and district-wide coordination.

5) DHW- Misdemeanant

In FY 2014, the Supreme Court will be managing the use of DHW-Misdemeanant treatment funds for problem-solving court misdemeanor offenders. We would review the management of the misdemeanor funds for any efficiencies.

Statewide Drug Court Outcome Evaluation

Rob Owens reported to the committee on the current status of an updated statewide Felony Drug Court outcome evaluation. He showed the committee some of the current data and identified some of the challenges in obtaining complete data for all outcome indicators we would like to include. It is hoped that the evaluation will produce a draft report by the September meeting.

Meeting Adjourned at 3:05pm

Action Items:

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