

Treatment Court Committee

February 16, 2023

9:00am – 4:00 pm (MST)

Lincoln Conference Room, Idaho Supreme Court and via Zoom

Minutes

Members in Attendance

Justice Gregory Moeller, Chair
Hon. Cynthia Meyer
Hon. Michelle Evens
Hon. Eric Wildman
Hon. David Hooste
Hon. Darren Simpson
Hon. Thomas Whitney proxy for Hon. Debra Orr
Director Josh Tewalt, IDOC
Commissioner Brent Reinke
Dr. Magni Hamso
Ross Edmunds
Mike Davidson, proxy for Lisa Crook
Scott Bandy
Jennifer Romero
Kerry Hong
Lisa Martin
Ron Christian
Marreen Burton
Israel Enriquez
Aimee Austin

Members Not in Attendance

Senator Patti Anne Lodge
Hon. Nancy Baskin
Hon. Rick Carnaroli
Jared Larsen
Megan Roumanis

Staff

Sara Omundson, Administrative Director of the Courts
Jason Spillman, Legal Counsel
Taunya Jones, Director of Justice Services
Scott Ronan, Sr. CPSA, Treatment Courts
Ryan Porter, Sr Administrator Behavioral Health & QA
Lynn Proctor, QA Coordinator, Applications Specialist
Marc Crecelius, CPSA, Juvenile Justice
William Miller, Research & Evaluation Analyst
Cheri Carter, Research & Evaluation Analyst
Lorrie Byerly, Administrative Assistant

Guests

Angela Reynolds
Jared Marchand

Meeting Convening and Minutes

The meeting convened at 9:06 a.m. by Chair, Justice Moeller, who welcomed the Committee members and guests and had them introduce themselves.

Justice Moeller called for a motion to approve the minutes of the September 13, 2022, Committee meeting. Dr. Hamso requested corrections be made to page 7 of the minutes in the second to last paragraph and remove references to the Legislature and legislative action on the statute cited therein. She also requested corrections to the last sentence in that paragraph so that it says, “moving away from daily observance.” Justice Moeller corrected the last sentence of the last paragraph on page 7 to say “Judge Simpson asked . . .” rather than “Justice Moeller asked . . .”

Judge Simpson moved and Israel Enriquez seconded adoption of the minutes from the September 13, 2022, committee meeting as corrected. Motion carried with none opposed.

FY23 Budget Report

Scott Ronan reviewed expenditures pertaining to substance abuse disorder charges in the Idaho Treatment Court Expenditure report for FY23 pointing out that we are about half of where we would normally be in expenditures mostly due to the Medicaid rules regarding the health crisis. Participants that have been able to access Medicaid have continued even if their financial status has changed. Medicaid financial eligibility will revert to pre-COVID rules which will match our budget estimates. We are monitoring the situation and know that the state conversations might change depending upon what Medicaid expansion looks like. We were able

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to steadily increase the budget over the last three years so that those jurisdictions not prepared to deliver a higher average hour of services are now able to do so financially.

The budget for residential and recovery support services is a little over \$1 million which reflects the change in Medicaid. We wanted to match the Medicaid rate to cover residential that had not previously been covered. There are still residential providers working to get into the Medicaid network and we are monitoring the budget carefully as the network reaches capacity.

Scott provided an update on IROC (Idaho Response to Opioid Crisis) funding saying we are close to accessing those funds to assist in medical evaluation and Medicaid assisted treatment medications although the providers do need to be in the network. Providers need to contact BPA Health if they want to get help in that network.

FY24/25 Budget Recommendations

Taunya said the AOC is developing a proposed FY24 financial plan and developing and vetting an FY25 budget enhancement request. She explained how the budget summit with the TCAs identified state-wide priority requests, including those that pertain to treatment courts, that informed this Committee's recommendations and the proposals developed and implemented in our FY24 financial plan that will go to the Court for approval. She is requesting the Committee's vote on the following three recommendations:

1. **Treatment:** The treatment court budget was increased last year and the year before, with FY24 marking the third year and final increase to close the spending-level gap. It is proposed to increase FY 24 budget allocations to the estimated amount required to deliver state-funded treatment in a manner consistent with the standards.
2. **Coordination:** It is proposed to increase the funding for coordination by the same amount as last year, \$200,000, which will be allocated to the districts based upon the percentage of total coordination funding they currently receive.
3. **Drug Testing:** It is proposed to increase the statewide drug testing budget by \$100 a slot for an FY24 drug testing rate of \$1,000 a slot, which is consistent with the multi-year spend plan.

The recommendations for increases in coordination and drug testing will be contingent upon the ability of the districts to provide detailed information about expenditures in those areas with the expectation it will be reported before the beginning of the next fiscal year. Data & Evaluation and the TCAs will need to figure out a format for the report.

Kerry Hong moved to approve all three statewide priorities recommended from the FY2024/FY2025 budget, and Brent Reinke seconded the Motion. Motion carried with none opposed.

Taunya said part of our multi-year spending plan involves using the cash balance in the drug court money for one-time needs or projects. Two one-time spend professional training and development projects have been identified. It is proposed to hold a one-day in person training for Treatment Court Coordinators to assist them in developing skills to be effective in their roles, and a one-and-a-half-day summit for Mental Health Courts to assist them in the unique challenges associated with the impending transition to a new model of treatment delivery. We would like to provide refresher training on best practices as it specifically relates to Mental Health Courts and give them the opportunity to network, collaborate and problem solve around those challenges.

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In response to Committee questions, Taunya said District Managers could be included in the Treatment Court Coordinator training and Scott said a survey will be done to help build content and determine the amount of time needed for training.

Judge Simpson moved to approve both budget requests, and Judge Hooste seconded the Motion. Motion carried with none opposed.

Taunya said they are in the early stages of exploring with the TCAs the feasibility and advisability of converting treatment court coordinators from county to state employees. The next steps are to develop a formal survey to gather information on the current landscape and variance of duties of coordinators across the districts and develop a standard job description with a classification and proposed salary range. The information gathered would allow the cost to be estimated and start the conversation about funding strategies before a recommendation is made on whether to move forward or not.

Housing is always identified as a priority in the Budget Summit, but housing requires more than a budgetary solution, or we would have built it in the budget already. Besides identifying funding, there is a shortage of housing options in our community and a lack of infrastructure. Although we fund safe and sober housing, we are looking at a variety of transitional accommodations and talking to Director Tewalt about what IDOC is currently doing as we develop a proposal. We are not prepared to incorporate that in the FY24 budget but do recognize as a priority and working on it.

We are supportive of new treatment courts where there is a capacity to do so and support among all stakeholder groups. In FY24, when there is a TCA submission for funding for a coordinator, drug testing, and treatment for a new treatment court, we would like to assess the request and determine whether we have the ability and current funding to incorporate it into our financial plan. It would also be contingent upon the new court submitting an application and being approved by this committee and the Court pursuant to the new treatment court rule. The TCA in Kootenai County submitted a budget enhancement request for a new veteran's treatment court, and we have incorporated a placeholder for that in the proposed FY24 budget since they still need to submit the application to the Committee.

The Committee discussed finding judges to manage the treatment courts and what role the AOC has to help with that. Taunya said TCAs will look at everyone involved, including judges, to make sure they have the capacity to take on a new court.

Taunya said the Idaho Behavioral Health Council was tasked with making recommendations to the Governor about how to spend the state portion of the Opioid Settlement Fund, and the recommendations sent to the Governor that relate specifically to the courts are: 1. to pilot a pre plea diversion program in Canyon County; and 2. to pilot low-risk, high-need treatment court tracks in existing courts in three jurisdictions still to be identified. If the Legislature approves the recommendations, we will be busy planning implementation of those programs.

At Justice Moeller's request, Director Tewalt shared information on IDOC's transitional housing.

Housing Proposal-Feedback from the Committee

Scott presented a tentative housing proposal to respond to the transitional housing crisis, especially in rural and frontier areas where there are significant issues finding safe and secure housing. The proposal borrows the framework of IDOC's transitional housing program that has more oversight and a tiered approach that

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would be beneficial to treatment court participants and allows adjustments based on our high-risk, high needs population. Scott reviewed that the proposal would allow for a tiered approach of services and would require oversight with a contractor and limits on duration.

Committee members said their big concern is to have a bed and a roof as they receive other services through the treatment court, although transportation is helpful. Providing expanded services for mental health court participants and specific populations with the highest needs through tier 3 was discussed. The need for that level of service will be a much smaller number. Motels or housing already available would have to opt into the network and have some oversight but could be like tier 1 and their use negotiated on a case-by-case basis. Defining who the contractor and what case management is would allow more creativity which might allow community members to rent rooms where real estate options are scarce.

Ryan suggested having a base price and an application to tack on other services á la carte with an increased base price instead of a tiered system. He said it may make sense for vendors to establish district or regional case budgets to be creative locally.

Director Tewalt said it is helpful to have a budget to provide some economic certainty for people choosing to invest in these types of housing opportunities because creating housing opportunities does not come without risk for the people putting capital into it. Showing a financial commitment to help people with transitional housing needs will help on the capacity side regionally.

Scott thanked the Committee for their feedback and asked for more direct help as he continues to work with Committee members. He asked the Committee what they would write if they did a proposal. He will seek more meetings with District Managers and reach out to Montana and Wyoming to research what they are doing.

Treatment Court Quality Assurance Workgroup-Recommendations

Scott said when the Court adopted standards, they wanted to build a Quality Assurance (QA) plan to include certification, and Ryan shared the Quality Assurance (QA) history. The survey that serves as a baseline for QA efforts was piloted this last fall and feedback was shared, leading to a workgroup being formed to make adjustments.

They will also design surveys for other members of the team, law enforcement officers, public defenders, and prosecuting attorneys. Also, the report will be more narrative with overall scores rather than laden with percentages and subpercentages of standards. The workgroup has more work to do refining the survey before rolling it out, at which time it will be put out to each district as a volunteer pilot who will then provide feedback so adjustments can be made. Although there is no timeline, if the surveys go out in May or June, the workgroup can review and make edits in the early summer and then we will get on the road to provide more education and get feedback on how standards are going.

The workgroup suggested changes to two standards to be brought to the Committee, and if the changes are approved by the Committee, those recommendations would go to the Supreme Court for their determination.

The recommendations for changes in two standards are:

First have in Standards Vol II. VII. Drug and Alcohol Testing where additional language, “. . . (or eight times a month) is inserted after “[U]rine testing is performed at least twice per week . . .”.

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Second change is in Standards Vol II, VIII. Multidisciplinary Team where language “. . . specifying what information will be shared among team members.” is removed.

After Committee discussion, Justice Moeller called for the question.

Scott Bandy moved to submit the recommended changes with the edits made by the Committee to the Supreme Court for consideration, and Judge Simpson seconded the Motion. Motion carried with none opposed.

Justice Moeller introduced Sara Omundson who informed the Committee she had been advocating for funding for pre-plea mental health courts and some low risk, high need tracks for our drug courts, which were recommended by the Governor. Please let the TCAs in your district know the priorities you will focus on next year, taking into consideration treatment court needs.

Idaho Rules for Treatment Courts Workgroup-Recommendations

Scott shared the history of the rules and the work of the Treatment Court Workgroup. He said the workgroup would also like to provide some sample policies and procedures and a handbook that is respective of the changes made.

Rule 3(b)(1)

After Committee discussion, Rule 3(b)(1) was changed to strike only the word “and” from the proposed rule change and to not strike “the treatment provider” as recommended, as well as insert a comma after the phrase being left in, “the treatment provider.”

Judge Hooste moved to strike the word “and” and add a comma after “the treatment provider,” as well as keep the recommended new language, “and any other entity necessary to the operation of the Treatment Court,” and Judge Meyer seconded the motion. Motion carried with none opposed.

Justice Moeller advised the Committee the proposed rule changes will be approved in toto at the end of the rules presentation.

Rule 11 Participation in Treatment court Outside of the Originating County

After Committee discussion, Rule 11(a) was changed to read “For the purpose of allowing a defendant to participate in a Treatment Court in a different county, including a county outside of the originating judicial district, the case may proceed through a change of venue or a transfer of supervision.” Rule 11(a)(1) was changed to read, “Change of Venue. The originating court may enter an order changing venue in the underlying criminal case after:”

Judge Whitney moved to accept Rule 11(a) as modified, and Lisa Martin seconded the motion. Motion carried with none opposed.

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Rule 17. Terminations for Treatment Courts

Rule 17(b)

The recommended change was: “. . .within twenty-one (21) days of the state’s filing of a motion for termination.” It was recommended to take out the apostrophe before the ‘s’ in “state’s” and take the word “of” out, so that it reads, “state filing a motion.?”

It was asked whether there was an Odyssey form for the state’s motion. There is not a form in Odyssey but there are examples that can be shared. A discussion arose about the juxtaposition of a motion to terminate with a motion to revoke probation. Justice Moeller said the discussion is about systemic things and a good conversation to have but suggested going through the rules and reserve these things for another time.

Rule 17(h)

This is a policy decision that is a Supreme Court policy and the Committee talked about whether this should be covered in the Idaho Rules of Evidence and just add Treatment Court Termination Hearing into the rules that don’t apply. Is this better suited in the Idaho Rules of Evidence? The right place may be in the Idaho Rules of Evidence. Rules of Evidence don’t apply to a probation hearing, so it could present a conflict. The Rules of Evidence apply in a termination hearing to the same extent they apply in a probation violation hearing. Justice Moeller suggested the Committee not vote on it because it is a policy issue and to let the Supreme Court decide, although if there is a strong preference, he will relay that to his colleagues on the Supreme Court. Judge Hooste would recommend that this Committee recommend to the Supreme Court either to leave this rule as is or to change Idaho Rules of Evidence 101(e)(3) to include a Treatment Court Termination Hearing with a probation hearing in that subsection of the rule. Justice Moeller inquired if there was any objection to leaving Rule 17(h) in the treatment court rules. No one objected.

Rule 17(i)

After Committee discussion, “[A] waiver to the hearing” was changed to “[A] waiver of the hearing.” Recommended language that read, “[U]pon a wavier, a participant will not be afforded an additional hearing regarding a probation violation or a violation of any condition of a presentence agreement of participation in a Treatment Court” was changed to “[U]pon waiver of the hearing, no additional hearing regarding violation of a term of probation is required.”

Judge Wildman moved to adopt the amended language to Rule 17(i), and Scott Bandy seconded the motion. Motion carried with one nay vote.

After Committee discussion, the recommended changes to **Rule 7(b), Rule 9(c) and (d), Rule 17(g)(9), Rule 17(j) (k), Rule 18(b), and Rule 18(e)** were accepted as presented.

Judge Meyer moved to approve, as amended, the entirety of the Idaho Rules of Treatment Courts, and Judge Hooste seconded the motion. Motion carried with one nay vote.

Scott shared a Termination Bench Card Deputy TCA Jason Dye and Judge Hooste came up with, as well as a flow chart for clerks on process Judge Simpson drafted. Committee feedback on each would be welcome.

Scott shared a new treatment courts application form under Rule 3 and asked for a motion to adopt the form.

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Ron Christian moved to approve the new form (Idaho Treatment Court Committee New Court Operations Applications Form), and Lisa Martin seconded the motion. Motion carried with none opposed.

Draft -Three Year Strategic Plan for Idaho Treatment Courts

Scott provided an update on the three-year strategic plan set to meet the mission and goals of treatment courts. The landscape has changed, and they were asked to reprioritize and to get out a New Judge's Tool kit which was already part of the strategic plan. In the next year, we will be building digestible training publications and videos to educate system stakeholders on treatment courts at a local level and are developing a communications plan to increase community awareness and education of treatment court this year. What is new in enhanced services for participants is the Health Outcome webinars Dr. Sadacharan is holding for educational support for treatment court teams. We are clarifying and educating on the roles and responsibilities of treatment court team members to Ensuring Team Sustainability. Any feedback on the strategic plan or re-prioritization because of emerging issues or needs is always welcome.

Donations for Participants-Feedback from the Committee

Justice Moeller said issues have come to the Justices' attention regarding the interface between courts and non-profit entities. The meeting materials contain a letter from the Chief Justice addressing the issues, and as a result of the letter, there have been a lot of questions and the need for some additional guidance. A workgroup has been put together with Judge Petty, Marreen, Sandra Barrios, Aimee Austin, Judge Watkins, Judge Ferrins, Shelli Tubbs, Israel Enriquez, Jason Dye, and AOC staff. The workgroup will address a broad scope of questions and has been asked by the Curt to develop a draft policy for their consideration.

District by District Report

Justice Moeller requested a report from each of the districts.

District 1 – Judge Meyer had Angela Reynolds, the new District Manager, provide a report. Kootenai County courts are full with the 521st graduation celebrated. The need for a veteran's treatment court has been identified, and they are in the process of identifying community stakeholders. Judge Berecz is taking over drug court for Boundary and Bonner counties with the latter having a goal of starting a mental health court. Benewah and Bonner County have a need for drug testing and affordable housing is a challenge in all 5 counties. She would like to see the critical incidence response training expanded and Narcan training. Local health districts offered to put on health training. The district sequential mapping SIMS project is scheduled June 17 and 18.

District 2 –They have 8 treatment courts in the district and 7 of those are full. They are staying on top of the fentanyl issues which have had a huge increase. The districtwide veterans' treatment court is celebrating 10 years this year. They have 3 mental health courts, and they have identified 3 private providers the department will be working with. They have a new coordinator and several new judges.

District 3 – Their mental health court has transitioned to a new provider for behavioral health services. Judge Orr has stepped down and Judge Burrows will preside over the DUI Court in Canyon County. Overall treatment courts are going great. Fentanyl has been a big deal for long time and is often mixed with methamphetamine or pills. Judge Whitney said his three-year drug court stint will be up, but he will stay on. Retention is the biggest problem, especially in their felony courts.

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District 4 –They bought a new treatment center and are trying to sell the old one. They have had the same policies, forms, and procedures for a decade and are updating them. They have had a lot of turn over. Their population last year was down, but they are over capacity now and between March and December, they added 125/130 new participants.

District 5 – They hired a new coordinator for Blaine County and were fortunate to find someone who lives in Blaine County. They had SIM mapping in September and a recommendation is having a pre-plea treatment court program with respect to mental health. They have same issues with fentanyl. Treatment courts are filling up and drug courts have 35 slots and 4 empty slots with 20 applicants. Their probation officers can take up to 50 but they don't have treatment providers, although the majority are Medicaid funded. They could use training for coordinators on crisis and management.

District 6 –Oneida County is doing well and close to capacity. They are hiring next week for a Tri County coordinator (Bear Lake, Oneida and Caribou Counties are combined into one job). Their 11 treatment courts are filling up, and they will be working on triaging. In mental health court, they are working on scope of work transactions and working with the ACT team on that. Kerry was happy to bring on Jared. They are constantly monitoring operations of drug testing and have seen costs skyrocketing 100% in Bannock County. They are doing an RFP to develop different options for drug testing. They are trying to look at Healthwise for medically necessary testing to use Medicaid to cover.

District 7 –They are busy onboarding a new coordinator in Bonneville County. Fentanyl is an ever-increasing problem. They have 19 courts that are full and have 107 applications waiting to be staffed. They only have one judge not working with the treatment courts. They are working on their mental health court transition. Judge Savage retires in March, and Judge Randall will be taking over the juvenile drug treatment court and the Butte/Custer adult drug court in Bonneville County, they have two recovery coaches for their family treatment court and felony drug court who are graduates from their program. They are planning sequential intercept mapping on April 20-21

Justice Moeller said the culture of addiction is a challenge and in doing treatment court work you are saving lives and families, and the Court appreciates all you are doing.

Motion to Adjourn

Judge Wildman moved and Lisa Martin seconded a motion to adjourn at 4:01 p.m. Motion carried with none opposed.

Next Meetings:

August 2023

January 2024