

Idaho Treatment Court Committee

March 6, 2020
Basement Conference Room
Idaho Counties Risk Management Program Building
Boise, Idaho

MINUTES

<p><u>Members in Attendance</u> Justice G. Richard Bevan, Chair Commissioner Brent Reinke, IAC Hon. Scott Wayman Marilyn Miller Jennifer Romero Hon. Gregory Fitzmaurice Lisa Martin Hon. Davis VanderVelde Ron Christian Gabriel McCarthy Judge Steven Hippler Marreen Burton Scott Bandy Hon. Eric Wildman Richard Neu Hon. Robert Naftz Hon. David Hooste Kerry Hong JoAnn Martinez Hon. Darren Simpson Paul Meigio</p>	<p><u>Members Unable to Attend</u> Director David Jeppesen, DHW Director Monty Prow, IDJC Director Josh Tewalt, IDOC Senator Patti Anne Lodge Eric Olson Dr. Magni Hamso</p> <p><u>Guests</u> Ross Edmunds, DHW Scott Johnson, IDJC</p> <p><u>Staff</u> Sara Thomas Taunya Jones Scott Ronan Ryan Porter Sandy Jones Jason Dye Lynn Proctor Claire Quade Stephanie Pustejovsky</p>
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Meeting Convening, Minutes, and Updates

The meeting was convened at 9:00 a.m. by Chair, Justice Bevan with an introduction of new Committee member, Judge David Hooste. Justice Bevan called for a motion on the draft minutes from the September 9, 2019 Committee meeting.

Judge Darren Simpson motioned and Commissioner Reinke seconded approval of the Minutes from the September 9th, 2019 Committee meeting. Motion carried with none opposed.

Scott Ronan briefed the Committee on an Executive Committee electronic vote, recorded on November 25, 2019. The matter taken was to accept or deny the letter of termination submit by the 5th judicial District Administrative District Judge and Trial Court Administrator for the Mini-

Cassia Mental Health Court. The Executive Committee consisting of Judges Naftz, Wayman, Fitzmaurice and Treatment Court District Managers Marreen Burton, Ron Christian, Rich Neu, and Paul Meigio, voted unanimously in favor of accepting the letter of termination.

Court and Legislative Updates

Sara Thomas provided a report on Idaho Supreme Court actions taken on the previous day that pertained to Treatment Courts. The Court adopted the Committee's recommended changes to Idaho Court Administrative Rule 55 and the changes will go into effect July 1, 2020. The Court discussed renaming "Problem-solving Courts" to "Treatment Courts," and directed the Administrative Office to draft a plan and implement. The plan should contemplate changing the language in areas where the change would be occurring already, such as business cards or physical signs, but not to change them until such time as necessary. Sara also reported that the Court approved the Committee recommendation to apply the Adult Drug Court Standards for best Practice Volumes I & II to all Treatment Courts (with the exception of Juvenile Drug Treatment Courts that are developing their own guidelines for implementation). The Court also approved of the revised Quality Assurance Plan that sought to establish a three-year rotating schedule and for all Treatment Courts for certification, peer reviews, process and outcome evaluations, and site visits.

Sara also briefed the Committee on Court related legislative matters, including a request for two new Magistrates and a one District Judge in the first judicial district. The Governor has been discussing a 2% holdback in the next fiscal year. Based on the initial projections from participant financial surveys collected and analyzed by the Administrative Office of the Court (AOC) regarding Medicaid expansion, the Court approved in FY21 a request for an additional \$600,000 in Substance Use Disorder Treatment Funds to be reverted to the state budget. This is in addition to the approximate \$900,000 the legislature had previously indicated they would decrease the ISCs' Substance Use Disorder funds. Sara said she has discussed with the Joint Fiscal Appropriations Committee co-chairs a potential supplemental for Treatment courts if needed.

Lastly, Sara briefed the Committee on the status of the formation and schedule for the Idaho Behavioral Health Council. The Court, governor, and legislature adopted, issues, and passed resolutions, to support the creation of the 13 member Council for the purposes of gathering information and drafting a strategic plan to address statewide systemic changes to addressing Idaho citizens' substance use disorder and mental health issues. The council is co-chaired by Sara Thomas and Department of Health and Welfare Director Jeppeson. The strategic plan is due in October 2020, with another three years of work ahead until the Council sunsets. Meetings have been scheduled and advisory groups and subcommittees are being identified for the months ahead.

FY20 and FY21 Budget Updates

Scott Ronan updated the Committee on expenditures including information regarding state Substance Use Disorder Funds and Medicaid expansion. Scott reported that the first half of FY20 saw increased expenditures for SUD treatment across the state, and a higher utilization rate than in FY19. In addition, the spending on Residential and Recovery Support Services has been higher, with spending projections for the full year to more than double from previous years.

Scott also reported on early information regarding the impact of Medicaid expansion on the ISC state SUD funds. While it's too early to tell, initial projections indicated that in FY20, there will be some treatment funds that could potentially be left unspent and if the funds are dedicated SUD funds they may be left in the ISC budget for FY21, but only accessible if a request was made and approved of the legislature for additional spending authority.

FY21 Enhancements and Substance Use Disorder Budget Management Recommendations

Taunya Jones provided the Committee with several options to discuss the reduction in funds for FY21 and strategies to address multiple needs for treatment courts, including increases in drug testing, coordination, residential and recovery support, and treatment services. Based on early projections, Taunya reviewed with the Committee that approximately 50% of state SUD funds would be necessary to address treatment needs due to Medicaid expansion. That does not take into account the reduction in funds, nor, the need to provide more funds per slot as previously available to reach a funding level consistent with minimum standards for both dosage and frequency of treatment services. Taunya reviewed that with the available funds in FY21, the request to the Administrative Office of the Court would include enhancements in the following key areas:

- Increase in coordination by 5% (\$55,247)
- Increase in drug testing by \$100 per slot for 1,458 Drug Court and Mental Health Court slots (\$145,800)
- Increase in Residential and Recovery Support Services consistent with the FY20 increase in spending (\$193,023)

These enhancements and a reserve of contingency funds would be available in FY21 if the AOC and Court approve this request. With the remaining funds, the treatment slot formula could be adjusted (to allow more contingency funds in case Medicaid expansion projections are not in sync with actual expenditures) or continue with the current formula with the strong likelihood that providers would not be hitting their FY20 monthly caps, meaning the funds would be diverted to the pot of contingency funds for other unmet treatment needs such as Housing, Medication Assisted Treatment, and Recovery Coaching.

An option that was discussed for formula adjustment would increase the funds per slot (from \$4,349 to \$5,000) but would decrease the total number of slots (from 1,193 drug court slots to 502) consistent with the initial projections from the participant financial surveys that indicated 58% of the current participants would be covered under Medicaid expansion.

The Committee held an in-depth conversation to the presented options, inquired Sara as to what the legislature may be thinking, and what approach would be better. Should we budget for all the available treatment funds, knowing we would use them on other treatment services after a reserve has been built up, or holding some funds in reserve at the start of the year and waiting to see how Medicaid expansion affects the statewide system.

Lisa Martin motioned and Commissioner Reinke seconded to adopt the FY21 enhancements as written, including \$5,000 per slot for 502 slots.

Substitute motion: Judge Wayman motioned and Marilyn Miller seconded to recommend keeping the funding slot at \$4,349 per slot for the present time and going forward, until the Committee and Court adjust it when more data is compiled.
Substitute motion: 15 for and two opposed. The original motion did not carry and the substitute motion was passed.

Taunya also asked the Committee if they wished to recommend use for realized funding in FY21.

Rich Neu motioned and Commissioner Reinke seconded to recommend that realized funds in FY21 be prioritized in the following order; 1) Increases in residential and recovery support services, 2) Addressing treatment services by provider, and all other areas (coordination, etc.) ranked lower.

Three for and all others opposed, motion failed.

Lisa Martin motioned and Judge Wayman seconded to recommend that realized funds in FY21 be prioritized in the following order; 1) Increases in residential and recovery support services, 2) Addressing treatment services by provider, 3) Increases in coordination, and all other areas ranked lower.

Six for and 11 opposed, motion failed.

Kerry Hong motioned and Judge Simpson seconded to recommend that realized funds in FY21 be prioritized in the following order; 1) Increases in coordination, 2) Increases in residential and recovery support services, 3) make providers whole that assumes housing is a new service under residential and recovery support services.
13 for and five opposed, motion passed.

Treatment Court Rule

Scott reviewed the timeline, process, draft, and impetus of Idaho Supreme Court direction for the drafting of a potential Treatment Court Rule. In sum, the Court expressed the need for the rule to be very high level and want clear feedback on what works and what does not. Judges Wayman, Hooste, and Simpson provided their thoughts on the draft and solicited feedback from the Committee in the meeting and following. Judge Wayman indicated he thought it was good starting point as a framework to come up with uniform rules, and Judge Simpson mentioned language for pre and post sentence courts were being considered. Judge Hooste shared that the approach was higher level and will try to address flexibility in operations for the Court to consider. There was no feedback shared in the meeting and Scott reported that there would hopefully be a draft soon, for Committee review.

Rule 55-New or Terminating Courts

Scott reviewed materials submitted in accordance with Idaho Criminal Administrative Rule 55 for the creation of a proposed Blaine County DUI Court. Thus far, a letter of intent was submitted and Rich Neu led the conversation with Judge Wildman offering his thoughts. The fifth judicial district made it clear that this court can only begin operation (with a target of fall 2020) if they have full funding for a coordinator. Blaine county commissioners initially supported the funding for this position, but if those funds are not available, and there are no Supreme Court funds, they will not continue with the implementation of this court.

On a separate note, Sara Thomas provided clarification that the Court approved the recommended Committee changes to Rule 55, but they would not go into effect until July 1, 2020.

Coordination Formula Proposal

Scott reviewed the previous three discussions with the Committee and Trial Court Administrators regarding proposed options for a coordination formula in the event that additional funding is available. The Committee was asked to review the newest formulas and consider the best course to apply the formula, meaning should it be applied to current allocated funds or only to newly available funds. The two main options provided to the Committee reflected the identified requests for consideration from those previous discussions, with some factors weighted more than others:

Formula One:

- Consideration of rural and frontier areas with less resources
- Coordinators with more than one court
- Ratio of participants to coordinators (represents a coordinator caseload)

Formula Two:

- Number of participants served for each district
- Number of treatment courts per district

Generally, smaller jurisdictions with coordinators coordinating multiple smaller courts set in larger geographical areas have been struggling. Both options present challenges to districts set in more urban areas and more dedicated coordinators. Scott indicate that the current coordination formula emphasizes the contribution of counties and serving more participants, while the feedback from TCAs led to the creation of the newer formula that emphasized strengthening coordination in areas where they have had challenges.

Judge Fitz-Maurice motioned and Judge Wayman seconded to approve formula one for all current funds starting FY21.

Three for and all others oppose. Motion failed.

Sara indicated that this issue is complex and requires Trial Court Administrators and Treatment Court District Managers to review their in-depth needs in their districts.

Kerry Hong motioned and Ron Christian seconded to leave the current coordination formula alone for right now, with local leadership conversations to be held in summer with TCAs and DMs.

15 for and 2 opposed. Motion carries.

Caseload Proposal

Taunya presented a proposal to the Committee for their recommendation to consider establishing protocols for the reasonable and responsible growth of Treatment Court caseloads. Taunya presented a draft form and figures representing the average number of individuals served for each fiscal year over or the highest in the last year (whichever is highest). Committee members indicated that an annual number is not as representative as providing the maximum or peak monthly number in the last few years. There was also discussion of adjusting the form to remove

a signature line for each team member and instead a method for each team member to identify their approval (checkbox) of the proposed caseload capacity. Once each court establishes their caseload capacity, and wish to increase their capacity, they will be required to fill out the form, ensuring they have engaged all stakeholders and considered important factors to their proposed growth, the form would be reviewed by AOC staff, for a potential approval. Courts with a caseload of 50 or under wanting to increase their caseload by five or more at one time and larger courts with 50 or more will be required to use the form/process if they wish to add more than ten at any one time. In addition, courts may not increase their size more than twice in a 12-month period.

Rich Neu motioned and Commissions Reinke seconded to establish a court baseline through a survey form, with the suggested changes, and distributed by the Administrative Office of the Court. Motion carried unanimously.

Treatment Court Standards & Quality Assurance Plan

Ryan Porter provided an update to the Committee on the status of a proposed revised Quality Assurance Plan for Treatment Courts, which includes the Committee's previous recommendations for the Court to consider graduated sanctions for courts not adhering to a performance improvement plan. Ryan reported that the Court approved the Standards and QA plan applying to all court types (with the exception of juvenile Treatment Courts who are developing a parallel process). Ryan reviewed the methodology, rationale, the schedule, and requirements for certification and peer review for all Treatment Courts in the coming years. Ryan indicated that courts would fall into separate cohorts with activities for each year in a three-year cycle to range from a certification, a peer review, or a year to implement changes, based on which group they fall into. The end goal would be for all Treatment Courts to be certified or working towards certification in the next three years. A multi-disciplinary survey would be finalized soon and distributed to coordinators for local administration.

Idaho Juvenile Drug Treatment Court Guidelines

Jason Dye, the Statewide Juvenile Justice Services Manager, presented the Juvenile Treatment Court Workgroup discussion and recommendations regarding Juvenile Treatment Court Guidelines. Jason reviewed the following objectives contained in the draft guidelines, as well as the suggested contents of participant's handbooks and policy manuals to address these objectives:

- 1) Focus the JDTC philosophy and practice on effectively addressing substance use and criminogenic needs to decrease future offending and substance use and to increase positive outcomes**
- 2) Ensure equitable treatment for all youth by adhering to eligibility criteria and conducting an initial screening.**
- 3) Provide a JDTC process that engages the full team and follows procedures fairly.**
- 4) Conduct comprehensive needs assessments that inform individualized case management.**
- 5) Implement contingency management, case management, and community supervision strategies effectively.**
- 6) Refer participants to evidence-based substance use treatment, to other services, and for prosocial connections.**

7) Monitor and track program completion and termination.

The Committee was asked to make a recommendation to the Court to adopt the workgroup's proposed guidelines.

Commissioner Reinke motioned and Rich Neu seconded a motion to recommend adoption to the Court of these Juvenile Drug Treatment Court Guidelines.

16 for and one opposed. Motion carried.

Sara inquired of Paul Meigio, the 7th judicial District Manager for Treatment Court, (who was on the subcommittee) as to the impetus of his objection. Paul indicated that the guidelines are well written but lack specificity for eligibility and graduation criteria. Paul provided an example that the guidelines indicate that a criminogenic risk tool needs to be used, but not which one, which could lead to some teams taking in the wrong kid. Jason Dye responded that is true, but a score may be revised and instead use the guideline contemplate classifications (high, moderate, low) rather than numbers. The workgroup discussed they wanted to follow the research rather than a specific number, that may not be borne out in the evidence at this point and time.

Updates from Districts on Medication Assisted Treatment Plans

The Treatment Court District Managers were asked to share their processes and elements of their efforts to draft Medication Assisted Treatment (MAT) district level policies and implementation plans. Scott updated the Committee that while the Court has taken action on the Standards, the next steps will be to have districts discuss to talk about their plans and share their information.

Marilyn Miller-District 1: Use of MAT has been fine in urban areas but there have been challenges with providers in the rural areas.

Lisa Martin-District 2: Same for the 2nd district but there have been some issues with providers. The communication has improved and more providers are willing to provide MAT. Coordinators talked and clinicians have made themselves available for these discussions.

Ron Christian-District 3: The Canyon Felony Drug Court wrote a policy and have a handbook with judge's approval. Participants just have to let the team know and sign a release if they want to go on MAT. They communicate and are treated like any other participant and if they do not communicate, they are sanctioned for that behavior, not their use of the medication. Even with Medicaid expansion, some cannot afford the medications.

Marreen Burton- District 4: There has been a pilot project in Ada and they have worked with one provider, as per their policy (Suboxone and have it in use or participants in 3 or 4 courts). Still very few participants thus far; however, they have had numerous on Naltrexone but it is expensive. Ada experience some issues with local jails, but now it is successful, it just took some time.

Rich Neu-District 5: Fortunate to have Israel Enriquez to have been able to work on the MAT policy in D5. Judges worried about turning over control to a physician and the fear of overriding a doctor's prescription. There is also some concerns with the effectiveness of MAT with opioid addiction, with 90% of participants with opioid addictions are poly substance abusers and they switch to whatever is available. Have had a history of bad prescribers with off label scripts. Right

now, the 5th district has an individualized assessment form that teams use to gather info and send to the prescribers if they agree to meet their standards. Teams assess if they can effectively provide that treatment, and provide that recommendation to the Judge. If they cannot believe MAT can be used in a safe manner, they give the option to seek that treatment outside. No issues to be reported so far.

JoAnn Martinez-District 6: We are working on a policy for MAT. Talked to IDOC, prosecutor's office, team's coordinators and consensus that teams are open to this. Everyone that needs to be on MAT is on it in D6. There have been some issues with local jails with their policies, not to continue MAT, but there has been some limited success to have the jail keep administering on a case-by-case basis.

Paul Meigio-District 7: Gaining more and more acceptance to look at MAT. Still a ways to go from an education and philosophical standpoint. Still having conversations on how long they should have it. D7 has a districtwide policy on MAT, consistent with the MAT guidance document drafted by the Committee a couple of years ago.

Motion to adjourn 4:00PM