

# Minutes of the Joint Legislative Oversight Committee

## January 17, 2019

### EW42, Capitol, Boise, Idaho



Cochair Representative Mat Erpelding called the meeting to order at 3:38 p.m. Attending the meeting were Senators Mark Harris (cochair), Dan Johnson, Michelle Stennett, Cherie Buckner-Webb, Representatives Caroline Nilsson Troy, Paul Amador, and Elaine Smith. Also present were Rakesh Mohan, director, Margaret Campbell, administrative coordinator, and other Office of Performance Evaluations' staff. Some audience members included the following:

Senator Souza

Representatives Youngblood and Ellis

Director Dave Jeppesen, Department of Health and Welfare, and Deputy Director Lori Wolfe

Administrator Jamie Newton, Southwest Idaho Treatment Center, and Miren Unsworth

Sarah Stover, Office of the Governor

Kathie Garrett, Idaho National Alliance on Mental Illness

Jim Baugh, DisAbility Rights Idaho

Mel Leviton, State Independent Living Council

Christine Pisani, Idaho Council on Developmental Disabilities

### Approval of JLOC Rules

Cochair Erpelding called on Rakesh to speak. Rakesh briefly reviewed the rules. He said the Joint Legislative Oversight Committee (JLOC) was equally bipartisan and equally divided by each chamber, cochaired by one member of each house and each party. The committee assigns projects to the Office of Performance Evaluations. Legislators can request evaluations, but the committee must approve requests before the office can begin an evaluation. After JLOC approves a request, the office develops a scope of the evaluation. The office tries to be responsive to JLOC and the requester, but ultimately the scope is decided by the office. JLOC does not take public testimony. The only individuals invited to speak are the evaluated agency and a representative of the Governor. Also, the office asks every evaluated agency as well as the Governor to formally respond to the report.

JLOC has the authority to take testimony under oath or subpoena. All workpapers are confidential until the release of the report. They are public after the report release unless they have confidential personal information. JLOC takes a vote to release the report and votes to decide action on the report.

**Senator Buckner-Webb moved to accept the rules. Senator Stennett seconded the motion, and it passed by voice vote.**

### Report release: *Southwest Idaho Treatment Center*

**Senator Harris moved to receive the report *Southwest Idaho Treatment Center*. Senator Buckner-Webb seconded the motion, and it passed by voice vote.**

Cochair Erpelding called on Rakesh to introduce the report. Rakesh said the report was requested by Senators Stennett, Buckner-Webb, and Representative Troy. They had been concerned about news articles on client abuse at the Southwest Idaho Treatment Center

(SWITC). The office was asked to look at operations. Rakesh thanked everyone at the Department of Health and Welfare and the treatment center for their cooperation. In particular, he thanked Deputy Administrator Cameron Gilliland and Administrator Jamie Newton of SWITC. Rakesh also thanked individuals and groups who helped develop the scope of the evaluation, including Christine Pisani of the Developmental Disability Council and Jim Baugh of Disability Rights Idaho.

Ryan Langrill, senior evaluator, summarized the report. He said the SWITC is Idaho's only state-operated institution dedicated to serving individuals with an intellectual disability. Many at SWITC have mental illnesses, complex medical or behavioral issues, and histories of violence or involvement in the criminal justice system. SWITC had transformed from a long-term home of almost 1,000 to a place of rehabilitation of less than 20 clients. As a result, SWITC was a vestige of an old treatment model that is no longer tenable. Its population was too small to provide a variety of needed expertise and its setting does not replicate community living.

Ryan said Idaho's background check process did not prevent most people who abuse vulnerable adults from working as unlicensed caregivers of those vulnerable adults. Senator Buckner-Webb asked if he quantified trauma to patients in his evaluation. Ryan said he had not quantified trauma but SWITC had. SWITC had been working with adult protection services on allegations of abuse. Senator Buckner-Webb asked whether there was any escalation in the number of clients abused during the evaluation, to which Ryan said no.

Ryan discussed staff trauma, the number of workdays lost to injury, medical layoffs due to injury. He had found that SWITC lost more employees than it hired in the first half of 2018. Direct care staff were the experts on the clients and high turnover caused a loss of expertise and led to a downward spiral.

Senator Stennett asked if downsizing and elimination of specialized functions were because of a lack of resources or because qualified applicants were hard to find at the wages offered at the center. Ryan said SWITC intended to replace occupational therapy with community providers so clients could see to the same providers when transitioning to the community. But community providers had not worked out well. They were not integrated with the treatment team and notes they provided were not useful to direct care staff who provided day-to-day treatment. Providers in the community made appointments to see SWITC clients. If clients were not having a good day, the provider did not see the client until the next scheduled appointment. This led to clients not receiving regular services.

Ryan said that part-time staff had similar coordination issues. They were not there for treatment team meetings, and clinicians had to rely on notes which might not be useful. One of the potential benefits of working in an institutional setting was an interdisciplinary team working together, but this did not happen with part-time staff.

Ryan said that as the center lost specialized staff, their duties were given to existing staff. But, existing staff did not receive training. As well, those staff already had full-time jobs so sometimes they were not able to complete the additional tasks.

Senator Stennett said SWITC had 17 clients with complex issues who could not be reintegrated into the community. Therefore, the state was not looking for community services but needed staff who could adequately deal with the multitude of difficulties that these clients experienced. She asked why SWITC had not geared its services toward that. Ryan said the mission of the center assumed everyone could be returned to the community. Senator Stennett asked whether the adult and minor populations shared services, and if so, was it a problem. Ryan said that over

the course of the evaluation, one minor stayed at the center for part of the time. That minor had one-to-one staff. Ryan said he had not found issues with mixed populations receiving services.

Representative Troy asked why the department decided not to sell the campus, since 600 acres seemed too big for the center and the center's facilities did not lend themselves to this type of population. Ryan said that the department intended to sell the land in 2015 as part of its strategic plan and build elsewhere. Of the 600 acres, 500 were leased to two golf courses, a Juvenile Corrections facility, Job Corps, and a work release center. Only about 80 acres were not leased. The City of Nampa paid about 1 percent of the market rate for golf courses leased on the land and would not rezone the area for anything but agricultural use, complicating the potential sale of the land.

Representative Troy said she was confounded. She asked whether the state had any other facilities that could house these individuals. Ryan said no. State hospitals did not specialize in serving those with intellectual disabilities.

Senator Stennett asked who received payment for the 500 leased acres. Ryan said he believed the leases were paid to the state. SWITC also received 1,800 hours of landscaping a month from the work release program. Senator Stennett referred to the \$8 million in federal funds that SWITC received and asked why the lease payments were not being put back into the revenue stream. Ryan said leases from the golf courses were \$32,000 year, which would not make a significant difference. Cochair Erpelding said the director may be able to speak to the leases when he responded to the report.

Senator Stennett asked about the cost of providing care to the 17 clients. Ryan said Oregon had done away with institutions and replaced them with crisis group homes. Oregon spent about \$1 million annually per client. Idaho spent about \$700,000 annually per client. The population was expensive to appropriately serve.

Cochair Erpelding expressed concern over SWITC's massive staffing shortage, which did not allow the center to provide direct services. He explained a one-third staff shortage meant that more people quit because the workload was overwhelming, which led to a downward spiral. He asked how SWITC was addressing its staff shortage. Ryan said that SWITC provided an increase in pay to new hires and existing staff in October 2018. Ryan said in his research for retaining quality care staff, an entity needed strong training, engaged supervision, and an organizational culture that encouraged direct care staff to participate in operations. He said it was important to develop direct care staff as an attractive career path. SWITC had started to do that with training that was incentivized with pay increases. He referred to a recommendation to extend early retirement of staff at high risk of injury.

Senator Buckner-Webb asked about criteria for transferring clients to the community. Ryan said each year SWITC prepares a packet for every client and sends it to possible community providers. A provider might be full when receiving the packet but may have an opening later. Senator Buckner-Webb asked whether SWITC had a measurement or benchmark that indicated the client was ready for placement. Ryan said measurements were part of plans and goals, but SWITC had no measurement that triggered movement into the community.

Representative Erpelding noted that if SWITC's goal was to provide effective treatment plans for patients, the goal was not working. Patients were restricted on activities because of a shortage of staff. He said he did not see how SWITC would ever meet behavioral or developmental plans for patients when understaffed. If SWITC lacked measurement and systems perspective, he asked how staff were able to measure the outcomes of their treatment plans. Ryan said staff collected

data about treatment plans, but the data was not great. Staff often do not submit data sheets, and some defined successes were subtle and hard to see. He said SWITC did not have an organizational approach to solving problems, such as training and turnover. SWITC participated in client measurement because it had licensing requirements to meet. Cochair Erpelding questioned the validity of treatment measures when SWITC did not have the level of staff needed to deliver the treatment.

Senator Stennett expressed concern for a safe working environment, both for clients and staff. The report indicated that the design of the buildings was not conducive to client treatment or to staff and client safety. Not keeping up with maintenance also contributed to the problem and created an unsafe environment. She asked whether there had been any discussion about a cost design change to make the facility safer. Ryan said the buildings being used were not designed by anyone familiar with the operations of SWITC. The department contracted with an architect, and the architect provided cost estimates. By the end of 2016, a new facility was designed, though plans were abandoned when the department could not sell the land.

Senator Stennett said the report was excellent and she was trying to see how to move forward. She asked whether SWITC was administratively top heavy, as there were seven levels of management. Ryan said the seven levels addressed whether the Bureau of Licensing within the Department of Health and Welfare was independent enough to conduct surveys of SWITC, which was also within the department. In terms of whether SWITC was top heavy, Ryan said he could not say.

Cochair Erpelding recognized Representatives Youngblood and Ellis in the audience and said that Senator Souza had been there as well. He called on Sarah Stover from the Governor's Office. Ms. Stover said she did not have any comments. Cochair Erpelding next called on Director Dave Jeppesen, Department of Health and Welfare.

Director Jeppesen thanked the committee and the office. He said the report was an excellent piece of work and fair in its conclusions. The only way to solve problems was to talk about them, and the report gave him a platform to move forward. At the highest level, he said there were two issues at SWITC: (1) the clients served and (2) the dedicated staff. The department must provide an environment for staff and clients to be successful. If it had been just a facility problem, that alone would have been a tough problem. But the problem was also a systems and strategic issue. The old model of care institutionalized individuals. The new model of care moved individuals into the community and was a much better model. However, when the new model was rolled out, it left a small population without good treatment solutions. He mentioned how, with some community support, this population could live anywhere on their own. Director Jeppesen said he was committed to look at best practices and had put together an advisory committee in hopes of finding a facility solution.

Senator Buckner-Webb said accountability seemed to be lacking. Director Jeppesen said the department needed to hold itself accountable. The end goal was to have a treatment model that helped these vulnerable adults be successful. To do that, accountability needed to be in place.

Representative Amador asked about alternatives in the private market. Director Jeppesen said he needed to explore alternatives. All states were struggling with the problem and solutions. Oregon had moved to crisis centers, but the centers were still run by the state. He said the population was hard to manage. A commercial solution could emerge, but it had not happened yet. As the department considered strategic plans, it would think about what would be the right model, whether state or commercial.

Senator Johnson said that OPE had made a good point. The Legislature needed to be accountable for crisis care in Idaho. Director Jeppesen said the department would help, but the problem was bigger than Health and Welfare. He said he would like to partner on options.

Senator Stennett said she had just heard from Supreme Court Justice Burdick that 40 percent of mentally ill individuals in jails were abused. She said jails should not be the only recourse for this population. She agreed with Senator Johnson that the state needed to do a much better job of overseeing its systems. Senator Stennett asked what would be the highest next hurdle: Facility? Staff? Director Jeppesen said he was about 12 days in to the job and asked for Deputy Director Lori Wolfe to speak to the Senator's question.

Ms. Wolfe said the department had been challenged to find a focus, and it had been reactive. Many entities with specific priorities have suggested where the focus should be. Clients at SWITC were not in the community because they had been committed to the department, because they had criminal charges, and because they had behaviors that could not be addressed in the community. SWITC was licensed as an intermediate care facility (ICF), and the treatment model as an ICF had not always been effective.

Ms. Wolfe said that in the past 18 months, SWITC had put in place better accountability structures, hired a new behavioral analyst, and put together treatment teams who looked at the treatment models every week. SWITC had been working with guardians to find out how to give the best care.

Ms. Wolfe said staffing issues were a persistent problem because positions were difficult to fill. Many direct care staff have probably not been paid well enough for their job duties. Many staff were out because of injury. Director Jeppesen said his two priorities were to use the right model of care for the population and to put together a facility that was conducive to the treatment of the clients and protection of the staff.

Cochair Erpelding asked if staffing was a larger problem in Health and Welfare. Last year's evaluation on inspectors of senior residential living facilities showed a high job vacancy rate. He asked if the staffing shortage was endemic. Director Jeppesen said that in his 12 days as director, he found the department filled with staff who cared about the people they served. Areas that struggled with hiring tended to be skilled jobs, such as those at SWITC. The problem was not necessarily endemic but in some areas it could be persistent.

Senator Buckner-Webb said she visited the center last summer. She said there was lots of transparency and she was impressed with the care and corrections to make the facility safer.

Representative Troy said making culture changes was difficult with an overlay of challenging, vulnerable clients. She asked whether clients were safe to remain at SWITC while cultural changes were being made. How can staff rebuild confidence for their job and ensure the safety of the clients? Should clients be there while the department develops a safe place? Director Jeppesen said the department needed to take immediate action even though SWITC had reached a stabilization point. Everything was not solved, but things could be managed while a long-term plan was being developed.

Senator Stennett read from the Governor's letter and asked Sarah Stover if the Governor had a vision for a task force. Ms. Stover said she did not know the Governor's long-term plans but said he wanted greater transparency and wanted to bring in stakeholders from around the state.

**Senator Harris moved to conduct a follow up in one year and present this report to the Senate and House Health and Welfare committees. Senator Buckner-Webb seconded the motion, and it passed by voice vote.**

### **Other committee business**

Cochair Erpelding said the report *Impact of State Mandates on County Governments* will be released during the week of the January 29. Rakesh will be in contact with everybody to determine the best time to release that report. The committee also needs to hear three reports that were released in October: Pardons and Parole, Design of Idaho Behavioral Health Plan follow-up, and Residential Care follow-up.

Rakesh said the reports issued in October were important to hear. They will be good to present to the committee and have questions for the department. The pardons and parole report was a good story. For a long time, things were bad at the agency with nothing happening. The agency had now made many improvements.

*The meeting adjourned at 5:06 p.m.*