

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Thursday, January 17, 2013
TIME: 1:30 P.M.
PLACE: Room EW42
MEMBERS: Chairman Wills, Vice Chairman Luker, Representatives Nielsen, Bolz, Bateman, McMillan, Perry, Sims, Dayley, Horman, Malek, Packer, Patterson, Trujillo, Burgoyne, Meline, Ringo
**ABSENT/
EXCUSED:** Representative(s) Malek
GUESTS: Holly Koole, Idaho Prosecuting Attorneys Association (IPAA); Tim Brady, Fraternal Order of Police; Fairy Hitchcock, Hitchcock Family Advocates; Sr. Judge Barry Wood, Idaho Supreme Court

Chairman Wills called the meeting to order at 1:30 p.m.

Chairman Wills explained the RS process and clarified that the intent of the print hearing was to get the RS printed and debate over the bill can take place during the hearing on the bill. He next welcomed all of the guests in the audience, with special recognition and appreciation for **Fairy Hitchcock** of Hitchcock Family Advocates for her continued presence and involvement in the committee hearing process.

MOTION: **Rep. Bolz** made a motion to approve the minutes from the January 15, 2013 committee meeting. **Motion carried by voice vote.**

Chairman Wills introduced and welcomed **Paul Jagosh**, Fraternal Order of Police (FOP), the largest police organization in Idaho. Mr. Jagosh said the substance of his presentation is the most important issue that he has ever been involved in and next introduced **Detective Brady**, FOP. Chairman Wills echoed the seriousness of the issue in Idaho.

Det. Brady said he has investigated internet crimes for about six years. He said this is a subject that has increased in prevalence in recent years in Idaho. He also said the reality is that there are many cases of child pornography which includes videos and photography of children being sexually abused. He offered more statistics and said that there are approximately 5,000 leads for these types of crimes in Idaho and most offenders have 23-25 victims before they are caught. Det. Brady then reviewed information on the types of internet searches that are done for child pornography and the various databases that are used. In response to a question from the committee, Det. Brady said that there is a greater prevalence of these crimes in urban areas because of the misconception about what is happening in rural areas.

Det. Brady explained what a person searching for child pornography looks for on the internet and the leads that officers are receiving are obtained through publicly available information of those who are trafficking and searching. Police are able to see files downloaded, dates and times, and tracking information. There are clues that lead police to know whether they are dealing with a hands-on offender. Det. Brady provided additional examples of specific offender cases and methods that offenders use to lure child victims and that often an investigation into child pornography results in discovery of child sex abuse as well.

In response to committee questions, **Det. Brady** said the FOP's impediments to catching offenders has been lack of resources, training and investigators. In regards to a question about penalties for these offenses he said a typical sentence for possession of child pornography is 8-10 years. He also mentioned there are some instances where the offender completes a 6 month treatment program and is then released. As for federal cases he said the mandatory minimum sentence is 8-10 years. **Mr. Jagosh** indicated that perpetrators know the police don't have the funding to adequately address this issue and that FOP is asking for \$2 Million as there are only 1.5 full-time investigators total in the entire state presently.

In response to committee questions, **Mr. Jagosh** stated that the federal funding received needs to be used for both sex trafficking investigations as well as child pornography possession investigations. In regards to setting spending priorities, the Attorney General's office will likely take the funding and put together a task force to address this issue, similar to what they have done for Medicare fraud. Mr. Jagosh said the one investigator for the state is only able to follow up on 25-30 of the 5,000 leads, and the leads obtained through internet searches are only one source. He said that the leads are found publicly, and only after a lead is found and followed, would a home of a possible offender be searched. Mr. Jagosh explained that it would be difficult to coordinate with local agencies because these are elaborate investigations and require a lot of follow-up and it would be hard to use local law enforcement due to the changing case load.

Chairman Wills introduced **Patti Tobias** and **Sr. Judge Barry Wood** to speak about the issue of finding qualified judges and judge recruitment.

Patti Tobias reiterated the need for the increased judge recruitment because of the high use of senior retired judges. She explained that in her experience, when all three branches of government work together to solve a problem they together can find a workable solution. She provided several examples: Dedicated court fund for court technology, increasing prison populations/specialized courts and the emergency surcharge put in place for Idaho Courts to keep courts funded and open.

Judge Wood said legislators should have an interest in this problem because judges provide Idahoans with sense of justice, within constitutional and procedural limits, they determine crime victims rights and set restitution. He said they provide a forum, in civil court, and provide justice by adjudicating property claims fairly and provide relief to those who have been wronged. He referenced several very time consuming cases for District Judges. He said it is very important to resolve the cases in a fair and just trial, and not save that for an appeal. He framed the urgency of the situation for the committee and said that between now and the next 5 years a majority of judges are eligible to retire which will mean less experienced trial judges. He said trials will take longer, and this will affect people throughout the state in different ways. He emphasized there are a very small number of qualified applicants for judgeships in Idaho.

Patti Tobias next explained a committee researched this problem in 2009; the State Bar was surveyed and results showed the primary barriers for applicants were: inadequate compensation, initial selection fairness, and potential of a contested judicial election. Ms. Tobias said that compensation is an issue that can be effectively addressed by the Legislature.

Rep. Nielsen commented on the evolution of law and questioned the need to be more heavy handed with penalties for violent crimes as a means of saving time in court and burdens on judges. **Ms. Tobias** said there are sentencing challenges for judges within the bounds of the law and she and **Judge Wood** could arrange a separate presentation about sentencing guidelines, results, and include the Department of Corrections. In response to further questions, Ms. Tobias outlined the non-partisan judicial election process in Idaho. On an election year, judge candidates will place themselves on the ballot for election. If a judge vacancy occurs during a four year term, judicial counsel is called and they will screen applicants for recommendation, the counsel will submit 2-4 names to the Governor for recommendation and the Governor appoints the judge based on those recommendations. Finally, that candidate must run on next ballot.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:42 p.m.

Representative Wills
Chair

Stephanie Nemore
Secretary