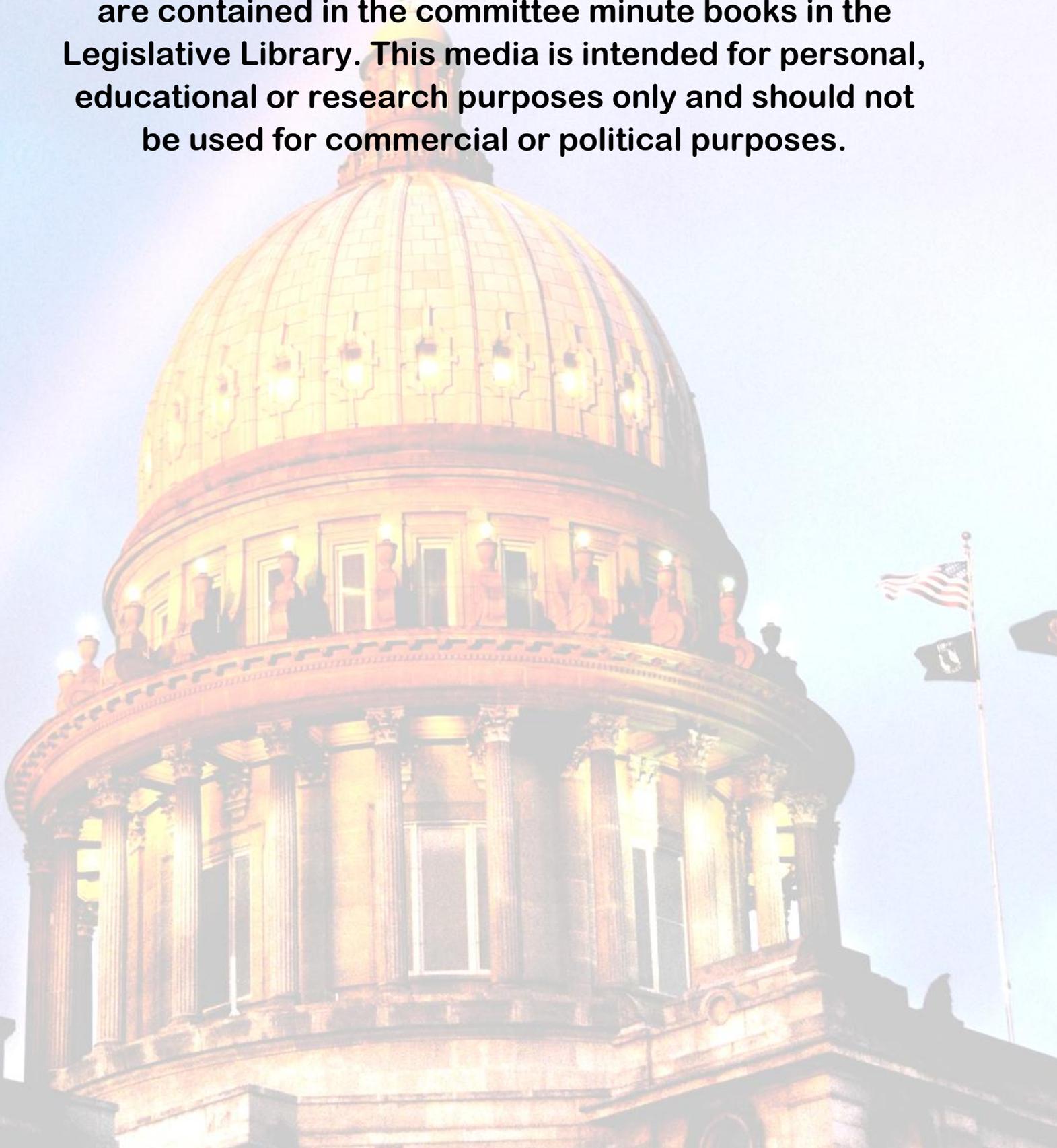


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# JFAC COMMITTEE MEETING MINUTES

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2/5/13

The hearing was held in Room C310, Statehouse, commencing at 8:00 a.m. and concluding at 10:30 a.m. with Chairman Cameron presiding.

**Roll Call:**

Senators: Cameron, Keough, Mortimer, Vick, Nuxoll, Johnson, Bayer, Thayn, Schmidt, Lacey

Representatives: Bell, Bolz, Eskridge, Thompson, Gibbs, Stevenson, Miller, Youngblood, Ringo, King

Absent/Excused: None

Staff present: Lockett, Bybee, Ellsworth

Others Present:

Medical Boards:

Mark Johnson, Executive Director, Board of Pharmacy

Nancy Kerr, Executive Director, Board of Medicine

Carol Youtz, Exec. Director, Board of Veterinary Medicine

Susan Miller, Executive Director, Board of Dentistry

Sandy Evans, Executive Director, Board of Nursing

Crime Victims Compensation:

George Gutierrez, Chief, Crime Victims Compensation Bureau

## **OFFICE OF ATTORNEY GENERAL (AG)**

**Presenter: Lawrence Wasden, Attorney General**

- ❖ Review of past activities
  - In 2012, office was appropriated almost \$18 million
  - Because of various settlements/recoveries the AG's office was able to return \$55 million to the General Fund
  - In the past the AG's office assisted counties with criminal prosecutions if requested. Last year the office had to turn away 15 prosecution requests from 9 counties and 1 city for lack of resources
  - Before the recession the Special Prosecutions Unit had 3 prosecutors and 4 investigators; after the recession, there were 2 prosecutors and 2 investigators
  - Robert Hall murder case

- Staff was required to take the case to trial which involved using 2 attorneys, 1 paralegal and 1 victim coordinator. The guilty verdict consumed most of the AG's prosecution resources for 17 months.
- ❖ Comparison of using state counsel versus outside counsel (hourly rate)
  - Private Attorney's rate \$125.00
  - SWCAP (interagency billing for legal services) 54.37
  - AG – median hourly salary \$ 35.73
- ❖ Highlights of the past year
  - Defended decision to delist wolves from the ESA
  - Defended Idaho's sovereignty concerning Healthcare Reform
  - Medicaid recoveries
    - Medicaid Fraud Unit recovered \$617,991 for FY 2012
    - Medicaid Estate Recovery recovered \$5,392,187 for FY 2012
  - Consumer Protection Division recovered \$24,255,635 in FY 2012
    - Recoveries transferred to the General Fund \$16,101,601
    - Restitution to consumers & state Medicaid \$ 5,772,757
  - Tobacco Master Settlement Agreement (MSA)
    - In FY 2012 received \$24,922,225
    - In FY 2013 expect to receive a similar amount in April 2013
    - Tobacco recoveries could be in jeopardy
      - Tobacco companies withholding millions of dollars in payments
      - Companies are seeking to wipe out tens of millions of dollars in future payments
    - Defended Idaho's right to MSA payments in National Arbitration
      - Significant resources were used to uphold contested payments
      - Continue to defend payments
  - Natural Resources Division
    - Snake River Basin Adjudication
      - Over 150,000 water rights adjudicated
      - Only 130 cases remain
    - Water management
      - 2 out of 3 cases decided
      - Awaiting decision on "Surface Call"
  - Land Board Litigation
    - By Idaho Constitution, endowment lands are to be managed for the benefit of present and future beneficiaries (removes discretion of management from the Land Board and the Legislature) which was re-affirmed by the Idaho Supreme Court in 2012
- ❖ FY 2014 budget request
  - State legal services \$19,039,900
  - Special Litigation 669,400
  - Total \$19,709,300
  - Statewide Cost Allocation
    - Transfer to General Fund
      - 4.5 FTP from Professional Services Fund

- 2 DAG – Department of Transportation
  - 2 Paralegals – Department of Health and Welfare
  - 0.5 DAG – Military Division
  - 1.0 FTP from Consumer Protection Fund
    - 1 DAG – Department of Fish and Game
  - Cost covered by Agency payments
- Special Prosecutions
  - Additional county prosecutor support \$293,600
    - Requesting 1 attorney & 2 investigators
  - Idaho State Police \$100,800
    - Adding 2 to ABC
    - Request 1 attorney (added workload)
  - Idaho Transportation Department \$100,800
    - Attorney (condemnations on rights of way)
  - State Tax Commission \$ 64,700
    - New paralegal (increased workload)
- Other requests
  - Continue interagency billing authority
  - Continue lump sum authority which allows for flexibility to address turnover, employee morale, and employee retention
  - Pay equity
    - Continuing to lose competent attorneys to higher paying agencies, counties, cities and law firms
    - State's legal work is specialized and sophisticated – retaining knowledgeable, competent attorneys is critical
- ❖ Internet Crimes Against Children Task Force (ICAC)
  - Protects Idaho children from internet crimes and predators
  - ICAC has identified more than 5,000 people in Idaho suspected of trading child pornography
  - Investigations and arrests show that 70% to 80% of predators have also committed physical sexual abuse
  - Removing predators saves children

## **DEPARTMENT OF CORRECTION: Commission of Pardons and Parole**

**Presenter: Olivia Craven, Executive Director**

- ❖ Mission is protection of the public, respecting victims, and the fair assessment of every offender reviewed
- ❖ History of Commission
  - Established in 1969 with 5 part-time commissioners under the authority of the Board of Correction
  - In 1998 the Commission was removed from the Board of Correction and placed directly under the Governor
  - Dedicated fund agency that operates in tandem with the Idaho Department of Correction

- Purpose is to conduct parole hearings, clemency hearings, and release designated offenders into the community on parole
- Grant or deny early discharges from parole
- Process parole violations
- ❖ Organizational structure of the Department of Correction
  - According to Idaho Code, Section 20-201, the Department of Correction consists of the Board of Correction and the Commission of Pardons and Parole.
    - Both agencies deal with the same prison population and parolees in the community
    - The IDOC director is responsible for all incarcerated offenders (programming and security), and supervises all parolees and probationers in the community
    - The Commission of Pardons and Parole is responsible for conducting hearings, determining whether parole-eligible offenders will be paroled, entering into contracts with offenders when they are ready to be released, and determining what violations should be issued warrants. The Commission has clemency authority (pardons, commutation, remission of fines).
  - Organization structure of the Commission of Pardons and Parole
    - Five commissioners appointed for 3-year terms
      - Janie Dressen, Coeur d'Alene
      - Mike Matthews, Declo
      - Bud Langerak, Idaho Falls
      - Gary Scheihing, Payette
      - Lisa Bostaph, Boise
- ❖ Process of an Incarcerated Offender
  - Offender sentenced
  - Establish date offender is eligible for parole and set initial parole hearing
    - About 18% of offenders are eligible for parole on the day they are committed to prison
  - Three months before the hearing/review, a hearing officer conducts an interview with the offender
  - Commissioners conduct a hearing or review of the case and make a decision on course of action
    - If parole is granted:
      - Commission sets a tentative parole date
      - Also sets the conditions of release and conditions of parole (Pathways programming)
    - If parole is denied:
      - Commission usually schedules another hearing
      - Or: passed to full-term release date
  - Additional information
    - Judge determines when an offender is eligible for parole release
    - Offender needs a good parole plan

- Commission works to get offenders out on their expected parole date (PED)
- Medical parole (terminally ill and/or permanently incapacitated)
- Victim process
- If parole is granted, Commission staff receives an electronic notification from Corrections that all programming has been completed and the offender has accepted the parole plan
- ❖ Parole consideration criteria
  - Seriousness and aggravation and/or mitigation in the crime
  - Prior criminal history of the offender
  - Failure or success of past probation and parole
  - Institutional history to include conformation to established rules, involvement in programs and jobs, and overall behavior
  - Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen
  - Information or reports that address medical or mental health concerns
  - Strength and stability of the proposed parole plan, to include adequate home placement and employment or maintenance and care
- ❖ Process of an offender on parole
  - Parole supervision is under Corrections not the Commission of Pardons and Parole
  - Various paths an offender can take
  - Parole violation
    - Huge increases in parole violators in last two years
  - Revocations
- ❖ Statistical information – Compare 2011 and 2012
  - Had 29 additional hearings in 2012
  - Parole releases were down by 205 in 2012
  - Parole granted rate was 63% in 2011 and 60% in 2012
  - Conducted 94 more revocation hearings in 2012
  - Reinstatements to parole were about the same in both years
  - Issued 68 fewer warrants in 2012
  - Types of violations
    - 33% felony crimes (another 2% have pending felonies)
    - 31% misdemeanor crimes
    - 21% abscond (probation officer could not supervise)
    - 11% were technical violators (violated rules of parole, had crimes dismissed, or were sex offenders who violated terms of their sex offender agreement)
  - Parole time can be forfeited or credited

## **Department of Correction**

**Presenter: Brent Reinke, Director**

- ❖ Introduction of members of the Board of Correction

- Robin Sandy, Chairman
- J. R. VanTassel
- Dr. David McClusky
- ❖ Priorities
  - Staff
  - Population
  - Balla and mental health
- ❖ Audit findings – the Department of Correction has no audit findings
- ❖ Management Services (first section of the budget includes the Director's Office, human resources and functions including fiscal operations, information technology and contract management)
  - Contract Administration Unit oversees \$77 million which is approximately 40% of the agency budget – most of the costs are for housing and services for offenders
    - The four largest contracts are:
      - Idaho Correctional Center (\$29 million) which houses 2,060 inmates, the majority are medium custody. The contract is administered by Corrections Corporation of America.
      - Kit Carson Correctional Center in Colorado houses 248 inmates. The contract is administered by Corrections Corporation of America.
      - Correctional Alternative Placement Program is a treatment facility with 432 beds managed by Management Training Corporation.
      - The medical contract provides services to inmates housed in CAPP, eight state prisons and four community work centers. Corizon is the medical provider.
  - Budget request
    - Spending authority through the Inmate Management Fund to pay for two new grant and contract officers
    - Law suit settlements
      - Legal fees in the Balla lawsuit
      - Legal fees in lawsuit by news organizations seeking access to view executions
    - Technical Records & HR Specialists – two positions
  - Challenges
    - Hiring and retaining staff are major challenges for IDOC
    - Building adequate information technology to support current needs
    - Contract administration
- ❖ Prisons
  - There are eight prisons in Idaho with an operating capacity of 4,950 beds
    - Women's prisons
      - South Boise Women's Correctional Center
      - Pocatello Women's Correctional Center

- Facilities that serve primarily medium and close custody inmates – some specialized beds for mental health, medical and the most dangerous inmates housed in administrative segregation
  - Idaho State Correctional Institution (ISCI)
  - Idaho Correctional Institution – Orofino
  - Idaho Maximum Security Institution (IMSI)
- Facilities serving lower-custody inmates and offer treatment and work opportunities
- Four community work centers and contractors, including county jails, provide the balance of the beds
- Inmate Population
  - Population as of today is 8,026 inmates
- Budget requests include items associated with the Balla settlement, a technical adjustment at ISCI and spending authority for funds
  - IDOC houses more than 2,100 inmates with mental health needs which is 27% of Idaho's inmate population
  - ISCI correctional officers – 5 mental health staff and 7 correctional officers
  - IMSI houses the most dangerous inmates requesting 5 officers to staff Units E and G
    - To fund operating expenses and capital outlay for radios
  - North Idaho Correctional Institution near Cottonwood houses a retained jurisdiction program and 414 inmates
    - One-time spending authority for proceeds received from the sale of department-owned property located at Cottonwood
- Contract Beds – budget request
  - ICC inflation increase (3%)
  - County jail and out-of-state beds (\$6.5 million supplemental)
  - CAPP increase beds from 359 to 400 and includes a 3% contract increase
  - Population Management
    - 6% growth and an increase of 486 inmates during this fiscal year
    - Challenges
      - Manage inmates and movement daily – try to maintain beds at 98% occupancy
- Prison challenges
  - Inmates flow through the system challenges the 98% occupancy rate
  - Currently house over 8,000 inmates but admit and release thousands more. (Last year IDOC managed more than 13,000 inmates.)
  - Logged 14,908 inmate moves between prisons last year which does not include thousands of moves within facilities
  - Other challenges include the continued growth of security threat groups (or gangs), managing contraband
- ❖ Community Corrections

- Offenders supervised in communities statewide through the Probation and Parole Division which provides pre-sentence investigation to the courts and manages interstate compact transfers
  - Probationer and parolee numbers are increasing – added 300 to caseload this year
    - Actions in this division helped stabilize the prison population
    - Efforts of the Pardons and Parole Commission also helped decrease prison population
    - Substance use disorder funds also helped by giving IDOC tools to divert a probationer into treatment instead of prison
- ❖ Education Treatment and Re-entry Division helped increase the number of releases and also helped offenders be successful
  - Nearly 400 offenders received GED's in prison last year
  - 3,500 received treatment through substance use disorder funds
  - Treatment pathways helped thousands receive parole
  - This division also includes the health care services contract and the final piece of the Balla settlement
- ❖ Medical Services
  - Medical Healthcare contract (Balla lawsuit – specific to ISCI)
    - Request for spending authority for a nurse manager to monitor the contract
    - Add 10.6 positions (add nurses and a regional medical director)
    - One-time capital outlay to expand the “pill call” area
    - Funds inflation for the contract
    - Provides for the medical contract 4% increase in FY14 which equals \$14.29 per inmate, per day
- ❖ Additional challenges
  - Challenges in probation and parole and education treatment divisions:
    - New court-ordered assessments go into effect in March 2013
      - New tools will add more offenders to the substance use disorder system each month
      - Reached the ceiling on what can be provided and are starting to limit some services
      - Will add to the workload for pre-sentence investigators
    - Balla monitoring - Cost of supervision fees
      - Fees fund 95 of the officers that manage offenders
      - Have 7 unfilled officer positions
- ❖ Correctional Industries
- ❖ FY 2013 Budget Supplemental request: 29.0 FTPs and \$8,414,200
- ❖ FY 2014 Governor's recommendation: 1592.93 FTPs and \$200,066,100

**ADJOURNED**

Senator Dean L. Cameron, Chairman

Peggy Moyer, Secretary