

**MINUTES**  
**Criminal Justice Reinvestment Oversight Committee**  
**Wednesday, December 17, 2014**  
**1:30 pm**  
**EW42, State Capitol**  
**Boise, Idaho**

In attendance were: Co-chairs Representative Richard Wills and Senator Patti Anne Lodge; Senators Shawn Keough, Dan Schmidt and Cherie Buckner-Webb; Representatives James Holtzclaw, Luke Malek, John McCrostie and Mark Nye. Senator Jim Rice was absent and excused.

Others in attendance included: Director Kevin Kempf, Teresa Jones and Shane L. Evans, Idaho Department of Correction (IDOC); Sandy Jones, Executive Director, Idaho Commission of Pardons and Parole; Holly Koole, Idaho Defense Attorneys Association (IDAA); Retired 5th District Court Judge Barry Wood; Ms. Patti Tobias, steering committee member; Kathy Griesmyer, American Civil Liberties Union (ACLU); Dan Blocksom, Idaho Prosecuting Attorneys Association (IPAA); Elizabeth Lyon and Erin Harbinson, Council of State Governments (CSG); Henry Atencio, Division Chief, Probation & Parole; and Representative Sue Chew, District 17. Legislative Services Office (LSO) staff present were Ryan Bush, Jared Hoskins and Charmi Arregui.

**Co-chair Wills** called the meeting to order at 1:30 p.m. and welcomed all the members and attendees. **Co-chair Wills** introduced the two new members to this committee, Representatives John McCrostie and Mark Nye, pointing out to them that this committee had been charged with a huge task, adding that there was much information for them to assimilate. He thanked CSG for all their hard work, funding, their expertise and the many valuable assets with regard to data collection. The state has decided to start the process with the probation and parole officers, getting people eligible to be out on the street and working backwards. Phase 2 of this project will begin in 2015 with adults, and next year's project will include the juvenile justice system. He said that the co-chairs have good ideas about how they want to see things come to fruition, believing that prevention is really the key to keeping people out of the system and that monetary savings will result. **Co-chair Lodge** thanked the staff and everyone who had participated in the steering committee on this huge project, adding that much progress has been made.

**Ms. Elizabeth Lyon**, Program Director, CSG Justice Center, was the first presenter and her PowerPoint presentation can be found on our LSO website at: [http://legislature.idaho.gov/sessioninfo/2014/interim/criminaljustice121714\\_csg.pdf](http://legislature.idaho.gov/sessioninfo/2014/interim/criminaljustice121714_csg.pdf)

**Ms. Lyon** thanked everyone involved in this endeavor and the steering committee for implementation of Senate Bill 1357 (justice reinvestment legislation) as well as Senate Bill 1393 (which statutorily defined the creation of this committee). Legislation required that several things be deferred to the administrative rulemaking process, and all those rules have now been submitted. These rules are all available in LSO; they are up for consideration in the 2015 session. She emphasized that rulemaking was done in coordination with both the Idaho Supreme Court and the Commission of Pardons and Parole who worked very hard on preparing these rules. Those rules include limited supervision rules, supervision rules included in handouts entitled "Response Matrix" and "Response Chart," and finally a set of rules that calls for the readiness of inmates. She also referenced several handouts from the Commission of Pardons and Parole. All handouts are available in LSO. **Ms. Lyon** pointed out that CSG will continue to use data and a performance matrix to track progress of implementation of Senate Bill 1357. There was a draft implementation guide which the steering committee will be using to talk about how policy implementations are going throughout the coming years.

**Ms. Lyon** stated that the Council of State Governments Justice Center is a national nonprofit, nonpartisan membership association of state government officials. They engage members of all three branches of state government. The Justice Center provides practical, nonpartisan advice informed

by the best available evidence. This includes data coming directly from Idaho and also from the criminal justice field, and other areas wherever they can collect the best information. She has the ability to oversee work being done in all states that have passed a justice reinvestment package and are implementing. Idaho is the ninth state. She hopes to bring the experience of all states to better inform Idaho's process. **Ms. Lyon** acknowledged the funding partners that make this process a possibility, those two being the Bureau of Justice Assistance (BJA), U.S. Department of Justice, and the PEW Charitable Trusts. Most of the work done in the implementation phase is funded almost entirely by BJA, and she thanked those funding partners. She stated that between 2010 and 2012, Idaho had the second largest growth in prison population nationally. Compared with a low crime rate nationally, something didn't quite fit. In 2012, Idaho's prison population rose to the eighth highest in the country. If individuals continued to be incarcerated at the same rate, additional costs to taxpayers in Idaho could reach as high as \$290 million by 2019. That figure includes both construction and operating costs. The state's supervision and diversion programs were not reducing recidivism. The majority of the prison population comprises: (1) people whose community supervision was revoked; (2) people sentenced to retained jurisdiction (Rider); and (3) people convicted of a nonviolent crime who are eligible for parole but have not yet been released. **Ms. Lyon** mentioned that at the morning steering committee meeting, **Ms. Patti Tobias** stated that those who were there on drug and property offenses were perhaps serving as much as 207% of their sentences, individuals who could be eligible for parole, but were sitting in Idaho facilities. Another combination to add to Idaho's "trifecta": what was driving population was a lack of oversight and the lack of ability to track outcomes, measure quality, and assure reliability of recidivism-reduction strategies. There was also uncertainty if investments were yielding intended outcomes. **Director Kempf**, she said, at the morning steering committee again made a great commitment to ensure the ability to track data and outcomes and the reliability of that data and perhaps, most importantly, being able to report all that to this committee and the Legislature to see the successes being made.

**Ms. Lyon** stated that passage of Senate Bill 1357 was an ambitious and comprehensive package to look at addressing all drivers of Idaho's system. The first strategy being worked on is to strengthen supervision practices and programs to reduce recidivism which includes: (1) response matrix of sanctions and incentives; (2) community-based treatment and programming; (3) validation of the risk assessment tool (LSI-R); (4) officer training initiatives; and (5) victim restitution collection (inmates). She emphasized what a huge impact incentives make on the population being supervised. Research shows that there is a four-to-one greater benefit with incentives, as compared to sanctions. Idaho, to her knowledge, is the first state that requires the use, statutorily, of both incentives and sanctions in supervision practices, which she said is huge. **Ms. Lyon** pointed out that the rules handed out to the members have yet to be adopted formally, but said that the CSG Justice Center is already sharing these rules with other states, so Idaho is leading nationally. She said there is a partnership between the courts, the Commission and IDOC to identify services being provided and what programming needs to be available to make this system work. It is important that the risk assessment tool (LSI-R) in Idaho be validated every five years, and the legislation calls for that. This should happen again in the beginning of 2015. The LSI-R tells the risk of an individual to reoffend, which then helps to put that person into different programming, incarceration or be supervised in the community, all according to different scores used with this LSI-R tool. Officer training initiatives are vital and hinge on effective and quality supervision, and she commended Idaho for superior training in order to help change offender behavior. That process has already begun and will be fully in place in years to come. Idaho will have some of the best officers nationally after the training program funded by the Legislature and is being carried out by the commission and IDOC. Victim restitution collection for inmates is very important for victims to feel whole and part of the recovery process. By March 1, 2015, all inmates will have a deposit account, money will be collected, and the process will move forward.

**Ms. Lyon** said that Idaho's second strategy for adjusting the population focuses on tailoring sanctions for supervision violations, providing recidivism outcomes at sentencing, and structuring parole to make more productive use of prison space. One of the key components of this policy

framework is the idea of parole violator sanctions (90-day/180-day) which is something talked about often as part of a continuum of responses for changing offender behavior while out on supervision. It allows an opportunity for a failing supervised offender, as pointed out in the response matrix handout. Sometimes a short-term jail stay gets the message across to change offender behavior before a full revocation takes place. As of July 1st, she said that recidivism data is being provided for a pre-sentence investigation (PSI) report; having that available for a judge to look at before sentencing will be valuable. Another huge piece in Idaho is having parole guidelines and risk-driven decision-making which allows for the release of individuals on parole using an actuarial-guided implementation, looking at risk and community safety. She pointed out the two sets of rules responding to Senate Bill 1357 and **Ms. Lyon** stated that **Ms. Jones** is working with the commission to develop parole guidelines that will be in place by March 1, 2015 that will also help with population control. She emphasized the importance of the partnership between parole preparation (the commission) and parole readiness (IDOC). Rules must be in place for incarcerated individuals to have the ability to receive the programming in a timely enough manner to be eligible for parole and be paroled.

**Ms. Lyon** stated that Idaho's third strategy is assessing, tracking and ensuring impact of recidivism-reduction strategies; she pointed out that this oversight committee had been established to make sure that outcomes are being tracked as described in Senate Bill 1357. Reviewing risk assessments for quality/fidelity is a component of this policy framework and making sure that the risk scores are being used appropriately. Another big piece is enhancing data sharing and collection, which has already begun. Conducting program evaluations is also very important, as well as having that risk (of reoffending) score data for a judge before sentencing. IDOC is already having a correctional program checklist (CPC) done on IDOC programs, a tool validated to rate effectiveness of programs and make recommendations. IDOC is training staff to conduct CPCs indefinitely to make sure that behind-the-wall programming, as well as community programming, are constantly being evaluated.

**Ms. Lyon** next addressed the fiscal impacts of Senate Bill 1357 policies which included: reducing recidivism 15%; reducing prison population 1% to 4%; and avoiding up to \$288 million in construction costs. Idaho is getting a national reputation for its tremendous reinvestment, an up-front investment, although Idaho has yet to actually realize these savings, but the Legislature has decided that it makes sense to make these investments now that will pay off in dividends later. There are a number of things done with the reinvestment including treatment, supervision and training which will help to ensure that savings are realized. **Ms. Lyon** pointed out that when the Justice Center comes in to provide recommendations, a range of possibilities is provided. When going through the policy development process, a range of projected savings is provided. The baseline 5-year projected population from 2015-2019 will hopefully drop from 9,408 to 8,014, which is the goal. Impacts are projected to be realized as follows: 74% of savings come from parole guidelines and partnership with IDOC that inmates are ready to be paroled by completing programming; 15% will be realized from recidivism reduction; 11% is projected savings in parole violator sanctions and incentives/response matrix and substance abuse treatment and community.

**Ms. Lyon** explained that different people from the CSG Justice Center will work with Idaho on the implementation (Phase II) since Phase I was successfully completed as of March 2014. Phase II will last a lot longer than Phase I. Goals in Phase II include the following priorities: (1) to implement justice reinvestment policy changes (SB 1357); (2) to ensure reinvestment appropriations are used effectively; and (3) to measure the public safety and fiscal impact of policy changes. CSG is available to make sure implementation is guided by research and lessons learned from other states. She said there is an opportunity to receive implementation funding support provided by the Department of Justice Bureau of Justice Assistance; Idaho can apply for up to \$500,000 in funding support or an implementation grant to help meet some one-time needs to implement policies. **Ms. Lyon** shared an organizational chart for the Phase II oversight committee. Under them is a steering committee

and issue-specific teams which include staff members and managers from IDOC, the commission, the courts, prosecutors, defense attorneys and others who have come together to help make sure that policies are implemented effectively, some meeting weekly. Phase II will last from 18 months to 3 years and CSG will provide assistance wherever needed, including policy changes, implementation assistance and establishing JRI strategies to measure impacts.

**Ms. Lyon** pointed out policies effective July 1, 2014, as well as policies effective March 1, 2015. Beyond 2015, there will be a program evaluation report coming to this committee on November 15, 2015, and a report is required to come from IDOC on January 1, 2016 (report out by 2/1 of each year). The deadline for all current officers to be trained in evidence-based practices is July 1, 2016.

**Senator Schmidt** asked about rules going through germane committees in the House and Senate; he wondered if there has been any push-back about these rules. **Co-chair Lodge** said that there had been some push-back on the policies to be effective on March 1, 2015, so she suggested that this committee discuss that. **Co-chair Wills** informed the members that the earlier morning steering committee thought that the March 1 date for training of the officers was not going to be realistic for the courts to assess what they need to do. They wanted to discuss whether the March 1 date should be changed to October 1, 2015. He added that **Co-chair Lodge** had asked the AG's office for more information on the March 1, 2015 date to see if the intent is the same as seen by the steering committee and the co-chairs of this oversight committee. He suggested that at the next meeting of this committee, a decision then be made as to whether that March 1, 2015 date needs to be changed and what would be needed to do so. Information will also be needed from IDOC as to how long training will take. That is the only push-back foreseen by the co-chairs at this point in time. **Co-chair Lodge** explained that the concern was the words "shall be in full force and effect" because as new hires come on board, they are not "in full force and effect" and thus the reason for asking for clarification on that language. **Co-chair Wills** added that they did not see this as a big detriment. **Representative Malek** asked if an AG opinion would be definitive; if we could eliminate the confusion by changing the date, he asked why this committee would not do that, eliminating the need for anything subsequently that might come from the AG's office. **Co-chair Wills** answered that if this committee changed that March 1, 2015 date, it may change other things that they might not be aware of at this time. If IDOC is given time to find out how much time training would take, the time line might be able to be moved up to July 1, 2015, instead of October. The facts are not in as to what date is realistic. No damage will be done waiting until the next meeting to decide whether the date needs to be changed from March 1, 2015. He emphasized that waiting is for clarity only.

**Senator Schmidt** moved that the decision to postpone the March 1, 2015 implementation date for Phase II policies be held until the next meeting of this committee. The motion was seconded by **Senator Buckner-Webb**, and the motion passed unanimously by voice vote.

**Co-chair Wills** invited **Ms. Tobias** to report on the earlier morning's steering committee. **Ms. Tobias** said that she was presenting on behalf of the Idaho courts as the most tenured steering committee member. She explained that she was the former Administrative Director of the Courts and had been with the courts for more than 20 years, and she will continue in the role representing the Idaho judiciary, even from Colorado, adding that it was such a privilege to do so. All three branches of government, she said, had worked very hard to make justice reinvestment a reality in Idaho. All three branches worked together to create Senate Bill 1357, but the heavy lifting fell to the judicial branch to ensure effective implementation. All stakeholders have worked incredibly hard and numerous reports will be received during this 2015 Legislative Session. The rules, of course, represent significant work and SB 1357 required that the board, in consultation with the commission and the Supreme Court, worked together to draft these rules and present them to this committee. There are four sets of IDAPA rules that the Legislature will take up in January, 2015 and she said that those rules were worked, reworked and significantly revised as a result of ongoing discussions and deliberations on behalf of the court and the rules that the Supreme Court was asked to consult with. The Supreme Court met just recently, she said, and they agreed that IDOC had worked very

closely with them, as contemplated by the statute, and they submit them, along with the Board, for the consideration of this committee. **Ms. Sandy Jones** would also agree, she said, that there has been effective communication and deliberation between IDOC and the commission in moving forward. Those rules are one significant work product.

**Ms. Tobias** next addressed the implementation of all of the other provisions, being very focused on rules that needed to be filed in November, 2014. Now they are turning their attention to the many other provisions of Senate Bill 1357. By the time the 2015 Legislature convenes in January, there will be a solid implementation guide for the members with all of the due dates of all the reports and information contemplated by Senate Bill 1357. There are many other provisions besides those shown in the PowerPoint presentation by **Ms. Lyon** and there are also various reports to the Legislature being worked on. The gap analysis was discussed at the steering committee meeting, and Senate Bill 1357 required that IDOC and the Department of Health & Welfare (DHW) submit a joint report to the Legislature identifying the criminogenic risk and needs of the felony population to identify where the gaps are in the treatment and programming necessary to reduce recidivism. The steering committee discussed taking a different approach to meet the requirement of the January 15, 2015 deadline, and she announced that the deadline will be met and a good gap analysis report will be given to the Legislature and every year thereafter. This entailed a significant amount of work, but **Ms. Tobias** stated that they are absolutely all committed to this as part of the justice reinvestment savings in reduction of recidivism. She announced that this committee also has a report due to the Legislature on February 1, 2015, and she offered help with that report which is on their implementation schedule. The other significant piece being worked on in the next 30-60 days is what is called the justice reinvestment performance measurement matrix. This is all about strategy 3 of the SB 1357 policy framework which includes: (1) tracking what is happening with the felony population; (2) what happens when a judge sentences a defendant to a fixed term and an indeterminate time in the penitentiary; (3) how quickly IDOC is moving that person through programming; (4) when is the Idaho Commission of Pardons and Parole hearing that offender's parole status; (5) are offenders being released into the community; and (6) how well is that supervision working in the community. There is much information to track, but this is where the reinvestment savings will occur, she said, so they are making sure to track that information as contemplated by Senate Bill 1357. She wondered if there is other data that this committee thinks is necessary to track, as part of this process, inviting feedback in order to finalize that matrix in the next 30-60 days. The steering committee will also be making a presentation to JFAC about the dollars that were allocated to IDOC and the Idaho Commission of Pardons and Parole which is scheduled for February 2015. Hopefully those dollars can be reinvested each year into IDOC and parole systems. **Ms. Tobias** said those were the major updates of the steering committee, and at this time she invited **Director Kempf** and **Director Jones** to address the committee.

**Director Kevin Kempf**, IDOC, agreed with **Ms. Tobias** that one of the most important parts will be the questions and answers in this meeting. He did put his stamp of approval on the significance of this criminal justice reinvestment project, which he said was huge and probably the single biggest impact to our criminal justice system in the state of Idaho. As much as this is positive, exciting and creates a lot of opportunity, there is also change that must take place. Change takes time, and he advised the members that sometimes change with something this significant may, at times, look like push-back, and he advised that some of that should be expected and to not be shocked by that. However, the process also should not be slowed down by that, encouraging everyone to work through this and look for early victories that justice reinvestment will provide for Idaho. He said this was a very exciting time to be part of the criminal justice system and he said he was humbled to be a part of it.

**Director Sandy Jones**, Idaho Commission of Pardons and Parole, said she was very excited to be in this role, having come into Phase II of the implementation phase. She said she was learning a lot and was educating herself in order to move to the next level. She said this was challenging and also

very rewarding in that the relationship between the commission, IDOC, and the courts is absolutely vital to this process, adding that progress is being made with everyone working so closely together. The commission has had to make significant changes, but those are miniscule compared to the changes at IDOC, the most significant having to do with the large portion of savings that will come with the process of parole decision-making and parole readiness by inmates as they come up for parole eligibilities. She said that much assistance had been received with regard to the development of parole guidelines which will make the process easier, more evidence-based and more consistent. This is their main focus now, as well as providing data necessary to support changes being made.

**Ms. Tobias** commented that district judges have been thinking about 3 principles guiding them recently through this implementation phase: (1) They very much appreciate and respect the Legislature's support for the unified sentencing act and that judges have full discretion to make the right sentencing decision. Throughout this process the Legislature's respect for the judges has been sky-high and she expressed appreciation for that. CSG has also found that to be true, that judges are making the right sentences. All three branches of government respect the role of the judges in sentencing. (2) The 45 district judges across the state have confidence in IDOC and the Idaho Commission of Pardons and Parole. After the judge makes the difficult decision about how to craft the sentence for an offender, the judges want to have 100% confidence in IDOC and the commission; she said they are almost there, but they still need to keep their eyes on the ball to have that trust and confidence in each other, as respective branches of government. (3) The third guiding principle governing their work is that the judiciary wants to make sure that IDOC and the commission have the necessary resources to accomplish the reduction in recidivism, the better use of prison space, and the quality of data needed, the 3 strategies proposed by the justice reinvestment process. She said the judiciary will stand shoulder to shoulder with IDOC and with the commission when the data is available and they can make the case for any need for additional resources to be reinvested into those departments, adding that the judiciary will want to stand in support of that. That is a keen area of concern and interest, since reducing recidivism will require the treatment, the programming and manageable caseloads in the community similarly to support using the prison beds most efficiently. Those are the guiding principles within the courts, she said, and the judiciary is a very strong partner in this, recognizing that there is much work to be done. They are committed to the process and she is very proud of the district judges across the state, having jumped in and are working very hard to work cooperatively to bring the very best product going forward. She thanked everyone for the respect given to the judiciary and for the executive branch and all that they have done.

**Co-chair Wills** thanked **Ms. Tobias** for the information and he said that it is good for all members on this committee to know that this is a huge team effort involving all three branches of government and keeping them completely on task with everything. Everyone at the table, including prosecutors and the courts are vitally important for success. If just one drags feet and doesn't follow through, it can create great concern for everyone else.

**Henry Atencio**, Division Chief, Probation & Parole, said that they had worked very closely with the judges, prosecutors, commissioners and staff to develop the Idaho response matrix, a process which was not always easy; concessions were made by all in order to make the Idaho system, in general, better. Implementation is the next step and that will be hard work getting staff properly trained, but he said he expects to see great results in the near future.

**Senator Schmidt** asked about changes made by the steering committee with regard to IDOC and DHW looking into the gap analysis and how that has been adjusted, and he asked for more information, since he had not seen a DHW representative at this meeting. **Ms. Tobias** turned to Senate Bill 1357 and the provision that talks about the gap analysis, on page 10, section 8, 20-216 (2) starting on line 42 which reads: "The board and the department of health and welfare shall submit a joint report to the legislature by January 15 each year analyzing: (a) The criminogenic needs of the active population of probationers and parolees; (b) Current funding available to deliver effective, evidence-based programming to address those needs; and (c) Any gap in funding to meet

the treatment needs of all moderate and high-risk probationers and parolees." She said that while the steering committee talked about a few different approaches, exactly as Senate Bill 1357 was written and passed, she assured the committee that IDOC and DHW will meet the deadline for that report. The real benefit from the steering committee's morning discussion, she said, was that this will be a first report, expecting each year that the report will be more credible, robust and informed each year by what is learned through this process, even though there are gaps. They want to make sure that the first report is credible and established; then, each year the report will be backed up with additional information. **Ms. Tobias** added that they may come to the Legislature in 2016 with, perhaps, a funding decision unit supported by the data and the gaps identified to be considered for reinvesting into the system to reduce recidivism, as CSG has contemplated.

**Senator Schmidt** asked if that request would come in the form of a departmental appropriation request or would that be a supplemental funding request. **Ms. Tobias** replied that it would not be out of the courts' budget. It would be attributed to the department, adding that she had not heard any talk about a supplemental request of appropriation. She thought that the preliminary report would be filed on January 15, 2015, and supplemental information will be added to that by the summer of 2015 so that the IDOC and DHW can look to see if the information now does support budget enhancement in their budgets. Then, the executive branch departments, in coordination with the Governor, can decide how best to come forward to the Legislature in 2016, believing that to be how it will work.

**Senator Keough** said she noticed that DHW played a big role in the gap analysis, and she asked if DHW was represented on the steering committee. **Ms. Tobias** assured the committee members that many from DHW are participating on the very specific teams that are operating, adding that they simply had not gone into that much detail. DHW has been working very actively on the program evaluation and community treatment team, and she said that Shane Evans from DHW was present at this meeting and could confirm that DHW is involved, as well as prosecutors who are involved in the supervision, parole and caseload review.

**Co-chair Wills** thanked everyone for their participation, time and efforts. He announced that this committee will meet again in February, 2015, and that there will also be a joint meeting with the Judiciary and Rules Committees in the House and Senate.

**Co-chair Wills** adjourned the meeting at 2:48 p.m.